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HEARING
SENATE RULES COMMITTEE
STATE OF CALIFORNIA



STATE CAPITOL
ROOM 113
SACRAMENTO, CALIFORNIA

MONDAY, JANUARY 6, 1997
2:25 P.M.

1 SENATE RULES COMMITTEE

2 STATE OF CALIFORNIA

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7 HEARING

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10 STATE CAPITOL

11 ROOM 113

12 SACRAMENTO, CALIFORNIA

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16 MONDAY, JANUARY 6, 1997

17 2:25 P.M.

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25 Reported by

26
27 Evelyn J. Mizak
28 Shorthand Reporter

APPEARANCES

MEMBERS PRESENT

SENATOR WILLIAM LOCKYER, Chair

SENATOR JOHN LEWIS, Vice Chair

SENATOR RUBEN AYALA

SENATOR JAMES BRULTE

SENATOR TERESA HUGHES

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

YVONNE LARSEN, Member
State Board of Education

JOHN MOCKLER
Association of American Publishers

BOB WELLS
Association of California School Administrators

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P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN LOCKYER: Our first task is the gubernatorial appointee. Miss Larsen, if you'll come on up and start us off here.

MS. LARSEN: Thank you very much.

CHAIRMAN LOCKYER: Good afternoon.

MS. LARSEN: Good afternoon to you.

CHAIRMAN LOCKYER: If you have any prepared comment, please feel free to do that.

MS. LARSEN: I have a few comments that I would like to make, thank you very much.

Honorable Members of the Senate Rules Committee, Chairman Lockyer, Vice Chair Lewis, Senator Hughes, Senator Ayala, Senator Brulte, I come before you today seeking your recommendation for reconfirmation by the Senate to the State Board of Education.

I've not requested a lot of letters of support from many, as I feel that the last four years of service is, indeed, a record of my service to the state. This time has been challenging, productive, exhausting sometimes, but I've always found it enlightening as well. I learn something new every day, good and bad.

I've worked with three Superintendents in a positive working relationship and with the greater education community. My record is one of an expediter, a facilitator, to approach our issues with courtesy and civility.

I have served as President this past year. The

1 Board would like me to continue in this role. That, of course,
2 depends on your decision.

3 I truly believe that we are at a very exciting
4 time in education; 1997 is going to be a stellar year, with
5 challenges and, yes, provocative and productive things taking
6 place in public education. The current working relationship and
7 spirit of collaboration between the Legislature, the Governor
8 and his staff, the Superintendent of Public Instruction, and the
9 California Department of Education, along with the California
10 State Board of Education, I believe, is a most positive
11 harbinger of good things to come for our children in the state
12 and in the nation.

13 A legislative directive last year asked the State
14 Board to conduct hearings throughout the state on our curriculum
15 frameworks, which we did. Those were productive, informative,
16 and interactive with the public, and the public approved and
17 were delighted to have that opportunity for us to meet with them
18 in their areas.

19 The current Commission on Academic Standards has
20 commenced its work. It is generating constructive dialogue and
21 an action plan that is exceptionally fine. Our schedules
22 overlap, so we are able to have constant interaction and to
23 stay, both of us, on task to the challenges that we face. The
24 public demands accountability, and it has become time for our
25 statewide standards.

26 For 20 years, I've been an education advocate,
27 but today I am truly elated about opportunities that we have in
28 education. The class size reduction that the Legislature was so

1 involved with last year, giving us again the mandate for phonics
2 awareness, phonemic awareness, direct instruction, and early
3 innovation strategies, will make a major breakthrough in future
4 academic achievement. Our Standards Commission will present
5 their draft to us in October of '97, and with public dialogue,
6 we will then approve their materials in January of 1998.

7 In 1995, in October, there was the first ever
8 three-board meeting of the Board of Governors, the California
9 State University, and the State Board of Education. In October
10 of 1997, I am very pleased to tell you that there will be the
11 first ever meeting of those three boards -- the State Board, the
12 Board of Governors, California University system -- along with
13 the UC Regents. And we are pleased that the Regents are going
14 enter that dialogue. We are looking to develop a seamless
15 educational strategy so our diploma and high school tests can
16 ensure entrance to CSU and to UC as appropriate, or the
17 community colleges, or technical school directive if that is the
18 student's desire.

19 Education bureaucracies are slow to act, but the
20 public is engaged more than ever in my memory, and I think that
21 is a very, very positive thing. The State Board of Education is
22 the one entity where any member of the state may come and have
23 their say. And we are considering putting some new ideas or
24 means in for continuing further dialogue, perhaps taking our
25 meetings to other sites, or to have public hearings in selective
26 areas on specific topics, for instance, the Los Angeles Unified
27 School District question on break up, deunification, or
28 whatever.

1 On just a small personal note, I come from an
2 immigrant background. My father was an immigrant from Sweden.
3 My four grandparents were immigrants. I have a very strong
4 feeling and commitment about the United States and what America
5 can be as the land of opportunity. I also feel that many people
6 working together can accomplish much. With rigorous, scholarly
7 expectations and curriculum, we can do that and improve the
8 educational opportunities for our young people.

9 In addition, safe schools are a necessity. We
10 must have civility on our school campuses, and we are infusing
11 character education into our curriculum. I'll point out to you
12 that January 13th through 17th is going to be Yellow Ribbon
13 Week, and it's speaking to safe school campuses. We're
14 challenging every school district in the state to try and focus
15 on discipline and making our school sites safe and learning
16 institutions, and not ones of discipline problems and all. We
17 think this is going to be very exciting.

18 I think this legislation was authored by one of
19 your own, Senator Hughes. You'll see lots of yellow ribbons
20 next week, and I'm sure that we will see that you all have one
21 to wear as well.

22 In closing, we have a Nintendo generation with
23 which we are dealing with. Our students are quite different
24 than they were when I was in school, or even when some of you
25 were. Our new technology is absolutely so explosive and
26 changing, we just need to continue to be relevant to what
27 technology does provide, but we need to make technology a tool
28 to help engage our teachers and empower our teachers into better

1 teaching strategies and better opportunities for our young
2 people to learn.

3 The world is changing. Our problems are great,
4 but we must turn those all into opportunities. And I want to
5 continue to work to be part of that positive solution, and to
6 see that the kids of California get the opportunity for better
7 education.

8 That concludes my opening remarks. I'll be happy
9 to answer any of your questions.

10 CHAIRMAN LOCKYER: Let me ask, are there people
11 here who wish to testify? Let's do that; we'll let them do
12 that.

13 MR. MOCKLER: Chairman Lockyer, Members of the
14 Committee, I'm John Mockler, representing the Association of
15 American Publishers.

16 We have worked with Ms. Larsen over her tenure on
17 the Board. While we have not always agreed with her decisions,
18 we have found her to be fair-minded, honest, with great
19 integrity, and in the end her decisions have been based upon
20 sound scientific practice.

21 We strongly support her confirmation by the State
22 Senate.

23 CHAIRMAN LOCKYER: Thank you.

24 Next.

25 MR. WELLS: Bob Wells with the School
26 Administrators Association.

27 I was going to say about the same thing that
28 Mr. Mockler just said, that we haven't always agreed with

1 everything that Ms. Larsen has done on the Board. We haven't
2 agreed with all of the actions of the Board she's presided over,
3 but she has represented the kind of Board member that you want
4 to work with.

5 She's approached our issues with an open mind.
6 She's been willing to set aside time to meet with us and hear
7 our points of view, so that at least on the issues that we cared
8 about in front of the Board, we felt like we had had our day in
9 court. And you can't ask for a lot more than that. And on many
10 occasions, we have in fact agreed, and that's even better.

11 So, we would also encourage you to vote in
12 support of confirmation and recommend that to the full Senate.

13 I'd be happy to answer any questions.

14 CHAIRMAN LOCKYER: Thank you.

15 MR. WELLS: Thank you.

16 CHAIRMAN LOCKYER: All right, are there questions
17 of Ms. Larsen? Senator Hughes.

18 SENATOR HUGHES: Thank you very much for your
19 opening remarks, and thank you for the recognition of Yellow
20 Ribbon celebration.

21 I, too, am concerned as I was when I had the
22 legislation to create Yellow Ribbon Week. But I'm also very
23 interested in the fact that you're going to be having hearings
24 in L.A. Unified School District --

25 MS. LARSEN: That is a possibility.

26 SENATOR HUGHES: -- regarding the break-up.

27 I was wondering, what is your position? Do you
28 feel that one of the reasons that people want to break up L.A.

1 Unified is not only the size, but the frustration and the
2 anxiety that many parents face because of the reality that not
3 many of our schools are safe enough to send our children to?

4 MS. LARSEN: I think it's a combination of all of
5 the above, really.

6 I personally do not have a stand on whether L.A.
7 should break up or not. This is a people decision. I know that
8 the people are getting frustrated; they want to have an
9 opportunity to have more say. That is the reason the Board is
10 considering having a hearing in L.A.

11 I don't know for certain that we will, but it's
12 one of topics that we will be discussing at our meeting on
13 Thursday of this week. The Los Angeles County Committee is
14 working on an organizational meeting tomorrow, and we will -- or
15 Wednesday, I believe it is -- and we'll have a report on what
16 their findings are at that point.

17 What we want to do is help facilitate the
18 dialogue to ensure that whatever does transpire down the road is
19 in the greater interest of the people and, of course, of the
20 students.

21 I think we need to look at the size of it as
22 different processes and different proposals come before the
23 Board for consideration. And until we know what those are, I
24 really can't say whether I will be pro or con. But I do think
25 they need to have the opportunity to be heard.

26 SENATOR HUGHES: I think safe schools is probably
27 the most challenging problem that we have faced here in the past
28 few years and will be facing in the future.

1 And so, I want you to keep in mind as the Board
2 deals with this, the reality that many of these horrible
3 situations were not only in urban schools but in the suburban
4 and rural areas, where we have had several incidences of
5 violence in schools.

6 And that's the thing that I hope does not get
7 mixed up with school break ups, the locality. It's not the
8 urban versus the rural or suburban. It's the parents and the
9 children and the teachers feeling that they're in a safe
10 environment in which to learn.

11 MS. LARSEN: The little bit of testimony that
12 we've already received at our statewide meetings were in
13 Sacramento from people from the area have been a concern
14 primarily for academic excellence.

15 I think that the safe school component really has
16 not been a major topic yet. That may come forth if we continue
17 to have hearings and deliberations.

18 SENATOR HUGHES: Then, if we are to achieve the
19 goal of academic excellence, it has to be in an atmosphere in
20 which children feel secure, parents are cooperative, and
21 teachers are supported and supportive of the atmosphere that
22 goes on in the school.

23 And I say that coming from a Senate district in
24 which the horrible situation took place in Figueroa Avenue
25 School. That's a well-run school with a fine administrator,
26 great staff, cooperative parents, but it was an unsafe
27 situation.

28 And so, I just wanted to put the plug in there

1 for a school that has done a fine job and is recuperating from
2 the tragedy, because I've recently been there, and I've been
3 there on several occasions to that school. So, the school is
4 probably one of the safest places in the state at this time in
5 terms of public schools.

6 But isn't it sad that we have to have a tragedy
7 like that before a school is really made safe?

8 MS. LARSEN: Indeed, it is.

9 Another topic on our agenda Thursday of this week
10 is a model compact that is being presented for acceptance and
11 modification as different individual schools would like to do at
12 the elementary level, at the junior high, and at the senior
13 high.

14 And one of the components that I added that I
15 feel very strongly about is that there must -- in addition to
16 the learning, a rigorous curriculum, an opportunity for
17 education, the teacher be motivational, is that the parents, the
18 staff, the students all accept the facilities, the school plant
19 itself, and treat it with respect and with dignity, and treat
20 their fellow students with respect and dignity, and that we have
21 a higher level of civility on some of our campuses than I
22 currently see.

23 This is one of the concerns of society that has
24 really made our schools quite challenging, but that's something
25 we as a populace and as a state and a nation must address to see
26 that civility is part of our public education process.

27 CHAIRMAN LOCKYER: Senator, anything additional?

28 SENATOR HUGHES: Thank you very much.

1 CHAIRMAN LOCKYER: You didn't ask about Compton.

2 Senator Ayala.

3 SENATOR AYALA: What is your position on parental
4 choice, and vouchers, and charter schools?

5 MS. LARSEN: I've never been a supporter of any
6 movement that I've seen to this point in time on vouchers or
7 choice.

8 On charter schools, I feel very positive that
9 they are offering an opportunity for a school district, a
10 constituency, to somewhat control their own destiny.

11 We now, as of our meeting this week, will have
12 118, 119 schools that are chartered as charter schools. I know
13 that the original limit was 100, but we've had lots of input and
14 lots of positive dialogue on continuing to name charter
15 schools. In that we have 999 school districts and have 7,900
16 schools, I think that to only have 118 charter schools is not
17 threatening.

18 I think if we can find a positive role model from
19 one of these charter schools that can be replicated, and they'll
20 become more of a force for really being a standard across the
21 state, I think that that would be good service.

22 So, I do support charter schools. I recognize
23 that Assemblywoman Mazzoni last year put in place an
24 accountability area, which I know had been of concern to some
25 people, and certainly is to everyone, I think, that there is
26 accountability.

27 But I think they're going in the right direction,
28 and I continue to support them.

1 SENATOR AYALA: So, the charter schools remain
2 under the jurisdiction of local school boards.

3 MS. LARSEN: Yes, they do at this point in time,
4 until the legislation would change.

5 SENATOR AYALA: Are you satisfied with the
6 current process or procedure for student growth assessment?

7 MS. LARSEN: That is an ever changing process.
8 We are going to have to put in place a good statewide assessment
9 system, and that is under discussion and development at this
10 point in time.

11 We are working on the Golden State Examination,
12 which Superintendent Eastin feels very strongly about. And we
13 had a presentation at our meeting last month that we want to
14 have diploma really mean something at the higher level, but at
15 any level, that any time a student has a diploma from
16 California, it should be worthy.

17 That's why I'm so excited about the conversation
18 that we can continue to have between other educational
19 institutions, such as the Board of Governors, and CSU, and UC,
20 that we develop higher standards that we can all buy into and
21 really assure that there is a strong continuum of education.
22 And the Academic Standards Committee is going to help us put in
23 place the stronger standards, and then from that will come the
24 stronger assessment system.

25 And we do need to have that available and to be
26 able the showcase California's kids as improving, which I think
27 they will be now that we have a stronger phonics component at
28 the primary grades. I think that is also going to do lots of

1 things at the other end of the spectrum to help us with our
2 problems with juveniles, because so many of the juveniles in the
3 later years who do get into trouble are ones who cannot read.

4 SENATOR AYALA: What two things in public schools
5 do you think need immediate attention? What two major things?

6 MS. LARSEN: One of the major things that the
7 Board is focusing on this coming year is our math curriculum.
8 We have a new adoption series that is coming out.

9 But I think we feel both with the reading
10 advisory that we put out this last year, and now with the
11 legislation that has helped us with the phonics situation and
12 our class size reduction, I think that we need to focus on
13 really a very strong math and basic skills, but also utilizing
14 the comprehensive thinking problems. We want kids who can
15 think, but they also have to have a basic foundation from which
16 they have the information so that they can comprehend the more
17 intricate and challenging mathematical problems.

18 So, really, the curriculum is the major concern
19 right now.

20 SENATOR AYALA: Tell us your position on Ebonics.

21 MS. LARSEN: I had never heard of Ebonics. I was
22 not familiar with the word until I heard it on the national news
23 media. It's never been discussed at a State Board meeting while
24 I've been on, or at any academic meetings at which I have been
25 in attendance.

26 It will probably be on our Board meeting agenda
27 later this week. We did all receive a copy of the resolution.

28 I feel that for every student in the State of

1 California, regardless of their language background, we need to
2 help them become conversant and proficient in a good, solid,
3 English-speaking language, because that is going to be their
4 measure for success and part of their success in later years.
5 And I think we do a disservice if we don't give them the
6 strongest English-speaking background.

7 SENATOR AYALA: Is that something like Spanglish?

8 MS. LARSEN: I don't know. I was not familiar
9 with it. They say that it's part of the slang that has become
10 popular with different groups of people.

11 But we've never taken any testimony on it or have
12 heard about it, but I'm sure we will.

13 SENATOR AYALA: Does your Board need to take
14 action one way or another on that at all?

15 MS. LARSEN: No. If they would ask for a waiver,
16 if they would ask for a waiver of the Education Code, that is
17 the time that it would come to the State Board. But we have not
18 received any request from them for a waiver.

19 We do deal with making policy and giving waivers
20 also, but it's not in the file at this point in time with any
21 request.

22 SENATOR AYALA: Thank you very much.

23 CHAIRMAN LOCKYER: I recommend reading -- I
24 don't mean to presume you haven't -- but reading the entire
25 Oakland Board resolution. You'll find some entertaining
26 statements.

27 MS. LARSEN: I have read it, and it was
28 interesting.

1 And it was quite different than the lady who
2 authored it spoke of on national television yesterday. They
3 said that her position has moved.

4 CHAIRMAN LOCKYER: Well, they seem to not be
5 changing their policy, but their public comment is different
6 than what it had earlier been.

7 MS. LARSEN: I'm sure we all will be watching, as
8 all of you will be watching. And if they do come forward for a
9 waiver, we will certainly look at it with great scrutiny.

10 CHAIRMAN LOCKYER: You served for a term on the
11 San Diego Unified School District Board.

12 MS. LARSEN: I did.

13 CHAIRMAN LOCKYER: Is there any particular
14 accomplishment during your tenure as a Board member you'd like
15 us to know about?

16 MS. LARSEN: Well, I was very excited when I was
17 on the Board because we put in place what I felt was a very
18 strong academic curriculum for our 23 minority-isolated schools.
19 And that period of time, the judge had recently recognized that
20 San Diego, they felt, did have a segregation problem, but it was
21 not intentional. So, we were allowed to have a voluntary
22 program of racial integration.

23 So, we put into place a program called
24 Achievement Goals Program, which lasted for several years, and
25 it was somewhat like Distar. And it evolved, as lots of things
26 do evolve in the education community, into a strong phonics. It
27 was basically called Distar, but had Achievement Goals Program
28 as its name.

1 But things change. Then the ball sort of tilted
2 the other way to whole language, and so some of that work, I'm
3 sorry to say, did not stay in place. And I feel sincerely had
4 it stayed in place, that it would have, you know, really
5 corrected a lot of the scores at an earlier age, an earlier
6 time.

7 I did not run for re-election at that time
8 because I knew that I was going to be on the National Commission
9 on Excellence in Education, which issued the clarion call to a
10 nation at risk about the state of America's education. And I do
11 feel very positive at this point in time, bureaucracies move
12 very slowly, and that was -- our clarion call was issued in
13 1983, and in 1996, the population is demanding many of the
14 things that were put forward in that landmark report, which I
15 think really engaged the American people in their concern about
16 education.

17 But again, education is a very, very slow moving
18 bureaucracy. But I think everyone's attention is focused on the
19 ball now that we do have to make some changes, and that's why
20 I'm very excited about 1997-1998 being really fantastic years,
21 and really establishing new benchmarks for positive education in
22 the State of California.

23 So, I hope with your continued good decisions
24 made at the Legislature, and the collaborative efforts of all
25 these groups working together, that our students are going to do
26 very well in the future with the collective wisdom of us all

27 CHAIRMAN LOCKYER: You were first appointed when,
28 what year.

1 MS. LARSEN: Four years ago.

2 CHAIRMAN LOCKYER: So, you served a full four
3 years?

4 MS. LARSEN: I served four years. I've served
5 now four years and nine months.

6 CHAIRMAN LOCKYER: So, this is your fifth year,
7 in effect?

8 MS. LARSEN: Right.

9 CHAIRMAN LOCKYER: But both during Governor
10 Wilson's tenure?

11 MS. LARSEN: Yes, I was appointed by Governor
12 Wilson.

13 CHAIRMAN LOCKYER: So, you've been there for
14 Eastin --

15 MS. LARSEN: I worked very well with Bill Honig.
16 In fact, Bill Honig was doing, early on, a lot of the
17 performance from the National Commission. I had a positive
18 working relationship with Bill.

19 I had a positive working relationship with the
20 Interim Superintendent, Dave Dawson. And now Delaine Eastin and
21 I have very positive collaboration. I told her I would never do
22 anything to embarrass her in public. If we ever have any
23 problem, we would discuss it in privacy.

24 CHAIRMAN LOCKYER: What problems have you
25 discussed privately?

26 [Laughter.]

27 MS. LARSEN: We haven't. We haven't.

28 I think civility in public discourse is extremely

1 important, and I feel that if all of us set a very high example,
2 that is one of the best lessons we can give to our young people.

3 CHAIRMAN LOCKYER: There seems to be some
4 tensions or difficulties between the Board and at least
5 Superintendent Eastin. I only sort of see or feel remotely some
6 kind of problem. What's that all about?

7 MS. LARSEN: We have eleven members, and there
8 are eleven unique people. Each of them comes from a different
9 background.

10 I think generally speaking, 99 and 44/100s
11 percent of the relationships are very comfortable and are
12 without problems. We have one or two members that have been
13 somewhat outspoken, and I think have not gone through the
14 process of alerting the Superintendent that they wanted to
15 discuss doing something differently.

16 I think any time we are going to change the
17 strategies or the modus operandi, it is a courtesy. I know if I
18 continue on and stay on as President, I will ask the Board in my
19 next tenure, if they're going to present an issue that is
20 different than we've had in our agenda beforehand, I'd like us
21 to at least have the courtesy of seeing it the day before, or
22 being told that a substitute piece of information, or list of
23 candidates to be named for a math writing framework committee --
24 which is what I think caused the problem -- that that would be
25 disclosed ahead of time so we would at least have the background
26 information.

27 But I think, generally speaking, that it is
28 positive. I know my relationships with Delaine have been very

1 comfortable, and we've had no shouting matches.

2 CHAIRMAN LOCKYER: What are you hearing from the
3 school community about class size reduction and either its
4 adequacy of funding or educational success?

5 MS. LARSEN: They always would like more money.
6 There's no school person that will ever ask for less.

7 I've heard absolutely wonderful, positive,
8 outstanding things of a lot of school districts who are finding
9 the most creative ways to resolve the class size problems by
10 going double track, or double session, single track, which I
11 think Anaheim has a waiver before us this time. They came and
12 made a presentation to our meeting that told us how they were
13 trying to use their resources in a different way.

14 So, I think most of them are trying to do very
15 creative ways. A few of them will never be able to do it by
16 virtue of the size of their physical plant. But I think most of
17 them are truly excited about it and trying to find a way to make
18 it work.

19 I hear nothing -- I would say I hear nothing but
20 good optimism that they can be part of that strategy.

21 CHAIRMAN LOCKYER: Funding adequacy?

22 MS. LARSEN: Funding adequacy, you'll never give
23 school people enough, as I said. They are always going to want
24 more. And they're saying that it's helpful; they say that it
25 doesn't cover the whole amount, but they're going to take it
26 anyway. But always they would hope that you would find a big
27 pile of money somewhere that you could help add to that
28 particular area.

1 And I think that the Governor's budget this year
2 will recommend, if I believe what I read in the paper, some more
3 money for class size reduction, if you all agree to that.

4 CHAIRMAN LOCKYER: Our material suggests that
5 there's been different Board recommendations or policies over
6 the last decade or so with respect to undocumented students in
7 the public schools.

8 Apparently, there was some kind of statement in
9 the late '80s that supported educating those students, and then
10 a resolution adopted in '93 that was the opposite.

11 MS. LARSEN: I don't think we -- to my knowledge,
12 we have no statement that says other than we will educate every
13 student who comes to school. In fact, we are not allowed, by
14 law, to question anyone's legal stature whether they are an
15 illegal immigrant or not.

16 CHAIRMAN LOCKYER: I guess you would once the
17 court cases are resolved?

18 MS. LARSEN: Yes, if the court case changed, then
19 we'd have to look at it differently. But as a school board
20 member, we were never allowed to ask anyone whether they were a
21 legal resident.

22 CHAIRMAN LOCKYER: No, that certainly reflected
23 the old law, the pre-187 law.

24 MS. LARSEN: The State Board has not changed that
25 perspective.

26 CHAIRMAN LOCKYER: Apparently in '93, Assemblyman,
27 and now, of course, Senator Mountjoy had a bill that would have
28 denied funding for undocumented students. And our note suggests

1 that the State Board supported the concept of the bill, but
2 worried about its implementation.

3 MS. LARSEN: I think that was discussed at the
4 legislative level of the Legislative Committee. I don't think
5 it was ever discussed in total at full Board.

6 CHAIRMAN LOCKYER: Other questions from any
7 Members at all? Yes, Senator Hughes.

8 SENATOR HUGHES: I was trying to wait for
9 everybody to have their turn.

10 What do you feel the State Board of Education's
11 role is in receivership cases, like in what Senator Lockyer
12 alluded to, Compton? Do you have a role there.

13 It's my understanding from the legislation, that
14 if the local school board came up with some specific proposals,
15 they would have a recourse of coming to the State Board to ask
16 permission to do certain things.

17 How do you feel about that role, and do you think
18 that that would help to solve some of the problems of getting
19 them back on target?

20 MS. LARSEN: The receivership basically is in the
21 purview of the State Superintendent of Public Instruction.

22 What the State Board can do is to be the bully
23 pulpit to help articulate the concerns to the people and help
24 facilitate that way, and/or if there are waivers that are needed
25 in the education area. Yes, we would then act on any waivers
26 that they would want that would be in some conflict with the
27 Education Code.

28 SENATOR HUGHES: What advice would you have for

1 me, as the Senator that represents that very troubled area,
2 which I'm very, very concerned about.

3 Do you think that you could offer them any
4 relief, or any suggestions that would help them to get back on
5 target?

6 MS. LARSEN: Here again, I would have to work
7 with the Superintendent on that because she's been very positive
8 that this was her role, and that she would report to us on the
9 issues.

10 Again, I think as the bully pulpit, whatever we
11 can do to help really motivate the citizenship and the teaching
12 staff and all to be positive actors in this, and activists would
13 probably be the best role.

14 But as far as procedure and legal oversight, I
15 don't believe we have much that we can do.

16 SENATOR HUGHES: But you would not deny the
17 school board an opportunity to seek the assistance of the Board
18 if they wanted some waivers?

19 MS. LARSEN: We'd do whatever we could within --

20 SENATOR HUGHES: So that they would have access
21 to you, just as they have access to the Superintendent?

22 MS. LARSEN: They have access to come and give us
23 a scenario of their problems at any meeting at any time. That
24 is one thing; we hear from any public person or entity that
25 wants to have a say about education.

26 SENATOR HUGHES: But they can also come to you
27 and ask for waivers?

28 MS. LARSEN: Indeed, very definitely.

1 SENATOR HUGHES: I don't know that they know
2 that. That's why I'm asking you the question.

3 Would you be willing to advise them of the same?
4 It's like saying we know that in our nation, you're innocent
5 until proven guilty, and I don't know that the Compton School
6 District knows that if they wanted a certain kind of waiver,
7 that they didn't have to bother the Superintendent. They could
8 come directly to the Board.

9 MS. LARSEN: Well, the Superintendent has agreed
10 to keep us informed. And so, at the next meeting, we can
11 certainly ask her about the status of what is going on at
12 Compton, and is there any way we as the Board can facilitate
13 them with the waivers, with the person that she has who is in
14 authority over the Compton School District.

15 SENATOR HUGHES: I think that's really wonderful,
16 because I think it should be a cooperative effort between the
17 State Board and the Superintendent, and not all the onus be just
18 placed on the Superintendent of Public Instruction to solve the
19 problem.

20 MS. LARSEN: We've offered to get involved, but
21 she to this point in time has indicated that it was her
22 oversight, and that she -- you know, it was in her area of
23 authority.

24 But we will certainly publicly state at our
25 meeting this week that if there is anyone -- when we chat with
26 her about Compton, that if there is any area that we can help
27 her and help the Compton people to facilitate resolution of
28 their problems, we'd be happy to do so.

1 SENATOR HUGHES: Senator Lockyer talked about the
2 implications of ballot Proposition 187.

3 Now, I'd like to ask you about the implications
4 of Proposition 209, which hasn't received complete resolution at
5 this point.

6 How do you think the actions regarding 209 will
7 affect the way that you function and in the whole civil rights
8 area?

9 MS. LARSEN: I know we all strongly believe in
10 every one having a fair opportunity.

11 As far as taking a position on 209, we have not.
12 Until it is legally determined what our future will be in that
13 area, I think the Board will not make any directives to go
14 forward either one way or the other. I think we're in a holding
15 pattern, waiting to see what happens. We know where all of our
16 affirmative action statements are, but as far as making any
17 decisions on our future activities, until there's resolution
18 through the court --

19 SENATOR HUGHES: Let me pick out one specific
20 program that bothers me because we're still operating under the
21 cloud of 209. That is the MESA Program. I've been deeply
22 involved with the Math Engineering and Science Achievement
23 Program administered by the University of California. And
24 certainly under 209, this program would be in jeopardy.

25 What are you going to do at the Board level?
26 You're just going to sit back and wait for the total
27 determination on Prop. 209? Or, are you going to stop the
28 program now.

1 We have a lot of students who are really and
2 truly academically involved and dependent on the MESA Program.

3 MS. LARSEN: I have not heard of any effort to
4 stop it at this point in time.

5 I think until there is some ruling from the
6 courts one way or other --

7 SENATOR HUGHES: You're not going to take any
8 action?

9 MS. LARSEN: We would not stop it, no, not that I
10 have been informed.

11 SENATOR HUGHES: Or would you on any of the other
12 programs, like voluntary desegregation, Indian Education Center,
13 Latino Heritage Resource Centers, Social Tolerance Resource
14 Centers, et cetera, et cetera? There's a whole laundry list of
15 things that are being threatened under this.

16 Is the Board going to have any of this on the
17 agenda until after this whole 209 situation is settled?

18 MS. LARSEN: No.

19 SENATOR HUGHES: Thank you.

20 CHAIRMAN LOCKYER: Other questions? Anyone care
21 to testify additionally.

22 Senator Lewis, do you want to make a motion on
23 this matter?

24 SENATOR LEWIS: Move confirmation.

25 CHAIRMAN LOCKYER: We have a motion before us to
26 recommend to the Floor confirmation. If Members are ready to
27 vote on the matter, call the roll.

28 SECRETARY WEBB: Senator Ayala. Senator Brulte.

1 SENATOR BRULTE: Aye.

2 SECRETARY WEBB: Brulte Aye. Senator Hughes.

3 SENATOR HUGHES: Aye.

4 SECRETARY WEBB: Hughes Aye. Senator Lewis.

5 SENATOR LEWIS: Aye.

6 SECRETARY WEBB: Lewis Aye. Senator Lockyer.

7 CHAIRMAN LOCKYER: Aye.

8 SECRETARY WEBB: Lockyer Aye. Four to zero.

9 CHAIRMAN LOCKYER: Let's leave the roll open for
10 Senator Ayala when he returns.

11 [Thereafter, Senator Ayala
12 cast an Aye vote, thus making
13 the final vote 5-0 for
14 confirmation.]

15 [Thereupon. This portion of the
16 Senate Rules Committee hearing was
17 terminated at approximately 3:05 P.M.]

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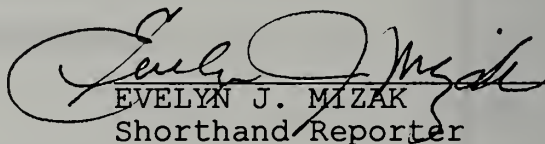
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I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this

8th day of January, 1997.


EVELYN J. MIZAK
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APPEARANCES

MEMBERS PRESENT

SENATOR WILLIAM LOCKYER, Chair

SENATOR JOHN LEWIS, Vice Chair

SENATOR RUBEN AYALA

SENATOR JAMES BRULTE

SENATOR TERESA HUGHES

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

CAROL J. BENTLEY, Member
Board of Prison Terms

RALPH R. PESQUEIRA, Trustee
California State University

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P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN LOCKYER: Appointees, Ms. Bentley, good afternoon.

MS. BENTLEY: Good afternoon.

CHAIRMAN LOCKYER: Well, what do you want to tell us about this whole business?

MS. BENTLEY: Anything you'd like to know.

CHAIRMAN LOCKYER: All right.

MS. BENTLEY: I tell people I'm one of those persons that went from the Legislature to prison, but I did skip the criminal justice system.

CHAIRMAN LOCKYER: You don't have to say that any more.

You've completed four years, right? This is your fifth year?

MS. BENTLEY: No, this is my fourth. It was a three year --

CHAIRMAN LOCKYER: You were filling out --

MS. BENTLEY: Yes.

CHAIRMAN LOCKYER: So, this then starts the clock again for the new term.

MS. BENTLEY: Right, four years.

CHAIRMAN LOCKYER: Well, tell us what's most challenging about this job.

MS. BENTLEY: I guess what I find, it's not too difficult to make the decisions that we need to make on whether a person is suitable or not for parole. Clearly, the people

1 that we see are the worst that the state has to offer, so that
2 hasn't really been a problem.

3 I have found it is sometimes difficult to hear
4 the horrible things that the inmates have done to get them into
5 a situation where they have a life sentence. And as you know,
6 we basically see murderers. It's our position, and it's my
7 position, that if you've been responsible for taking a person's
8 life, you have to prove to me that you're very exceptional to
9 get a second chance.

10 CHAIRMAN LOCKYER: All right.

11 What proportion of your time do you think
12 addresses revocations or suspensions of parole, rather than the
13 determination?

14 MS. BENTLEY: Very little. The commissioners
15 basically do the life hearings, and the deputy commissioners are
16 the ones that do the parole revocation.

17 CHAIRMAN LOCKYER: So, you don't have to hear
18 many of those?

19 MS. BENTLEY: No, but we are trained and prepared
20 to do it.

21 CHAIRMAN LOCKYER: You delegate that to the
22 deputies?

23 MS. BENTLEY: But we do, on occasion, do those.
24 Some of the times we're out in kind of remote locations, so
25 we'll fill in when there's a need.

26 CHAIRMAN LOCKYER: Have you enjoyed some of the
27 fine spots around California?

28 MS. BENTLEY: Yes, yes. Calipatria, Blythe.

1 CHAIRMAN LOCKYER: You really get to know the
2 state.

3 MS. BENTLEY: Yes, you sure do. I'm going to be
4 a tour guide next, hotel recommendations and restaurants.

5 CHAIRMAN LOCKYER: Sexually violent predators. I
6 guess there's some effort, we have changed the law recently with
7 respect to those people. It's been, I guess, a year since it
8 became effective.

9 How has it worked out?

10 MS. BENTLEY: It's working very well.

11 One thing I'd like the Committee Members to know
12 is that, as I'm doing these life hearings, I see these sexually
13 violent predators that had a previous history of violence and
14 rape. But now they're in prison because they've murdered
15 someone.

16 So, I look at what we're doing with this law is
17 saving some lives.

18 CHAIRMAN LOCKYER: How many of those have you
19 heard?

20 MS. BENTLEY: You mean myself, have I heard? Oh,
21 gosh, I do about two thousand hearings a year, so it's kind of
22 hard to say, but I've certainly seen them.

23 CHAIRMAN LOCKYER: A bundle?

24 MS. BENTLEY: Yes.

25 CHAIRMAN LOCKYER: A bunch of those.

26 MS. BENTLEY: It makes you kind of sick to think,
27 you know, this person got let out, served a fixed time, and then
28 was released, and then ended up killing someone to get the life

1 sentence, with a rape involved with it.

2 CHAIRMAN LOCKYER: We have some statistics
3 regarding parole violations that just suggest that the number of
4 revocations has increased from 60 percent to 68 percent in the
5 last couple of years.

6 MS. BENTLEY: Actually, the information I have is
7 that it's averaged 50 percent in the last few years, which has
8 been rather consistent.

9 CHAIRMAN LOCKYER: I don't know what the basis is
10 for this particular comment or analysis.

11 MS. BENTLEY: Well crime, but they just figure,
12 we don't even -- I'm sure as you know, Senator Lockyer, that a
13 lot of times you'll get district attorneys where, they have
14 actually committed a crime, but they just figure, we won't even
15 charge them with that.

16 CHAIRMAN LOCKYER: It's the easy way.

17 MS. BENTLEY: Yes, send them back.

18 CHAIRMAN LOCKYER: Do you see that? This would
19 be a deputy that's dealing with it, not the commissioners.

20 MS. BENTLEY: Right.

21 The ones that I've done, as I recall they were
22 drug related, possession of illegal substances. Could have been
23 filed by the DA but not.

24 CHAIRMAN LOCKYER: There's also a suggestion or
25 question asked about whether there's a possibility of expanding
26 prisoners that participate in drug treatment programs? I guess
27 there's been a couple of pilots or experiments, or whatever you
28 might call them. Amity is one that I recall --

1 MS. BENTLEY: Right, down at Donovan.

2 CHAIRMAN LOCKYER: -- being discussed in the past
3 that resulted in fewer people coming back to prison after they
4 participated, and in previous efforts --

5 MS. BENTLEY: And we have a new one at Corcoran,
6 too.

7 It's interesting, when I first came to the
8 Legislature, that was in '88, I found that in the prison system
9 we didn't have Alcoholics Anonymous even or Narcotics Anonymous.
10 That's available now in all of the prisons for inmates to
11 participate in.

12 I'm not sure if you see many that have a
13 determinate sentence participating in those, but you certainly
14 do see the indeterminate sentence inmates that have drug and
15 alcohol problems involved in those.

16 CHAIRMAN LOCKYER: As I recall the general
17 statistics, about a third of the state prisoners are there for a
18 drug-related crime, about a third for property crimes?

19 MS. BENTLEY: Yeah, that strikes me as being
20 about right.

21 But I can tell you that most of the inmates that
22 I see that come up for these lifer hearings have had a drug and
23 alcohol problem in their past, and some still do in the prison.

24 CHAIRMAN LOCKYER: We always wonder how they
25 manage to keep supplied?

26 MS. BENTLEY: I know.

27 CHAIRMAN LOCKYER: I guess they figure out ways.

28 MS. BENTLEY: I've read some incredible methods

1 that they've used.

2 CHAIRMAN LOCKYER: Are there questions from
3 Members.

4 Just to close on that, to the extent that you
5 have the opportunity to refer people to drug or alcohol
6 treatments, I'm just assuming that you use that to the maximum.

7 MS. BENTLEY: Absolutely, lecture them, beat up
8 on them and say, you know, if you expect to ever get paroled out
9 of here, you're going to have to prove to a panel that you've
10 taken the steps necessary that you're not going to go back to
11 using drugs.

12 CHAIRMAN LOCKYER: Okay, Senator Ayala.

13 SENATOR AYALA: I have a question.

14 We've been told that by the year 2000, we're
15 going to be out of beds in the prison system.

16 Is there any rethinking on the part of the Board
17 about releasing those with a minimum security to make room for
18 the more severe cases or higher risk?

19 MS. BENTLEY: See, we're the severe cases,
20 though, the ones that have got the life sentence. We're the
21 severe ones. We're the violent offenders, the ones that have
22 got the life sentence.

23 I like to tell people when I'm telling them about
24 what I do that if they were to come to the hearing with me,
25 they'd write a check and say, "Keep this person there," because
26 they are -- they're just very dangerous people.

27 So, the other ones that are serving the
28 determinate sentence.

1 SENATOR AYALA: I would think it would be a poor
2 excuse to release some of these people that shouldn't be
3 released simply because we're out of space.

4 MS. BENTLEY: Absolutely.

5 SENATOR AYALA: The Board has not been
6 considering any alternatives to the current procedure for
7 releasing inmates from the prison because of the overcrowded
8 conditions we'll be facing in the year 2000?

9 MS. BENTLEY: No, no, because those that are the
10 less violent, the white-collar, they're serving determinate
11 sentence. They're just serving their time and getting out.

12 I also feel that there's some that are under the
13 determinate sentence that probably shouldn't be because they
14 don't have to prove to anybody if they're ready to get out.

15 But no, these people you want there.

16 SENATOR AYALA: Thank you.

17 CHAIRMAN LOCKYER: A related issue is your own
18 thoughts about whether the indeterminate sentence pool should be
19 expanded? It sounded like --

20 MS. BENTLEY: Personally, I believe in some
21 instances it should be expanded.

22 CHAIRMAN LOCKYER: How would you do that? You
23 can't write a law probably, unless there's a certain kind of
24 crime.

25 MS. BENTLEY: Certain kinds of crimes.

26 CHAIRMAN LOCKYER: What would it be?

27 MS. BENTLEY: I think if you've had a propensity
28 for violence in the past and repeated, that we set strict

1 guidelines to these inmates about what they're going to have to
2 do before we're going to find them suitable.

3 If they haven't gotten education, they're going
4 to have to get some education. If they haven't gotten a
5 vocation, if this has been a robber that's committed several
6 armed robberies and he doesn't have any skill when he gets out,
7 you know darn well he's going to be right back in there.

8 CHAIRMAN LOCKYER: So, you'd get all the three
9 strikes cases; right?

10 MS. BENTLEY: Yeah, but I don't think I'll be
11 here that long.

12 CHAIRMAN LOCKYER: But those would be --

13 MS. BENTLEY: Yes.

14 CHAIRMAN LOCKYER: -- in your purview.

15 MS. BENTLEY: Yes.

16 CHAIRMAN LOCKYER: How does the second strike
17 work? I can't remember. Do you get those?

18 MS. BENTLEY: No, no. See, those people that are
19 getting under the strike laws, they're going to have to serve a
20 whole bunch of time.

21 CHAIRMAN LOCKYER: What's the second strike under
22 the general law.

23 FROM THE AUDIENCE: Double the term.

24 MS. BENTLEY: Yes.

25 CHAIRMAN LOCKYER: So it's not indeterminate at
26 all. It's determined.

27 FROM THE AUDIENCE: If it's an eight-year
28 crime --

1 CHAIRMAN LOCKYER: It becomes sixteen. Then
2 there's one strike sexual offender population which is
3 indeterminate.

4 Please, did I interrupt you in the middle of a
5 thought?

6 MS. BENTLEY: No.

7 CHAIRMAN LOCKYER: Others, anyone.

8 SENATOR HUGHES: I have a question.

9 To what extent are the community correctional
10 centers and work furlough programs being utilized for parole
11 violators, and should these programs be expanded?

12 MS. BENTLEY: Particularly for those that don't
13 have a propensity for violence. But, if they do have
14 propensity, I don't think you want to see them in those type of
15 programs.

16 SENATOR HUGHES: So, they are being utilized
17 well, or you don't utilize them much?

18 MS. BENTLEY: It would all depend on the
19 particular situation.

20 SENATOR HUGHES: Do you think that we should come
21 up with more alternatives to incarceration? Do you believe
22 that once they're incarcerated, they come out a more hardened
23 criminal than they were before?

24 MS. BENTLEY: Not the ones that I let out don't.
25 If I feel that the ones that I'm supporting parole for and
26 voting to give them a parole date, they better not be a violent
27 hardened criminal at the time I find them suitable for parole.

28 But I'm sure that could be the case of some of

1 those that are serving determinate sentences.

2 But I do look at the situation where it appears
3 now that our crime rate is at least not expanding as it has
4 been. And I think it's because we know that people are getting
5 the word that there are going to be harsh penalties; that
6 they're no longer going to get a slap to the wrist.

7 Currently in Department of Corrections, the
8 average time served by an inmate is only like 24 months. And as
9 we add on to the time that people are going to be serving for
10 the crimes that they commit, we're going to, I think, see a drop
11 in the crime rate.

12 SENATOR HUGHES: Since you've been on the Board,
13 what attitudes did you have going in that have changed or have
14 remained the same?

15 MS. BENTLEY: Like I said earlier, and it still
16 happens, I'll hear of some awful crime, and I just can't imagine
17 doing that, and I think nothing can top this. Then something
18 does.

19 I did a lot of work in the Legislature in the
20 criminal justice system, so I had kind of a feel for that,
21 except I just didn't realize how really bad it is.

22 CHAIRMAN LOCKYER: I know Bob Burton, John
23 Burton's brother, who worked at San Quentin for a long time and
24 had various jobs around the criminal justice system, I remember
25 him one year saying that when he was younger, sort of the old
26 days, there'd be murderers, but they'd just like shot somebody.
27 But more and more, there were just horrible mutilations and
28 terrible things. That it was changed, that the quality of

1 misdeeds were more disgusting.

2 MS. BENTLEY: Yes.

3 CHAIRMAN LOCKYER: That seemed to be a trend that
4 he was pointing to.

5 Well, what's the pleasure of the Committee.

6 SENATOR BRULTE: Move.

7 CHAIRMAN LOCKYER: We have a motion by Senator
8 Brulte to recommend confirming. Call the roll.

9 SECRETARY WEBB: Senator Ayala.

10 SENATOR AYALA: Aye.

11 SECRETARY WEBB: Ayala Aye. Senator Brulte.

12 SENATOR BRULTE: Aye.

13 SECRETARY WEBB: Brulte Aye. Senator Hughes.

14 SENATOR HUGHES: Aye.

15 SECRETARY WEBB: Hughes Aye. Senator Lewis.

16 SENATOR LEWIS: Aye.

17 SECRETARY WEBB: Lewis Aye. Senator Lockyer.

18 CHAIRMAN LOCKYER: Aye.

19 SECRETARY WEBB: Lockyer Aye. Five to zero.

20 MS. BENTLEY: Thank you very much.

21 CHAIRMAN LOCKYER: Good luck.

22 All right, Ralph, come on up.

23 I forgot to ask if anyone wanted to comment
24 during that last discussion. Did I cut anybody off or miss
25 somebody that wanted to mention something for the record? I
26 apologize.

27 Hi.

28 MR. PESQUEIRA: Hello.

CHAIRMAN LOCKYER: Do you want to give us a brief background?

MS. PESQUEIRA: Well, I've been a Trustee now -- I'm in my ninth year, and thoroughly enjoy the job, and find it to be extremely challenging.

And even though I do run a business in San Diego, I sometimes feel I'd rather be working as a Trustee than working in my business.

CHAIRMAN LOCKYER: How long have you had the Mexican restaurant?

MR. PESQUEIRA: My family started it in August of 1940. It's been around a couple years.

CHAIRMAN LOCKYER: So, it's been kind of almost go on auto pilot while you're at the meetings?

MR. PESQUEIRA: Almost, almost.

My wife is in the business with me, so she kind of keeps that one facet of management running all the time.

CHAIRMAN LOCKYER: Also, you've been very, very active --

SENATOR HUGHES: Senator Lockyer, I think that it's incumbent upon the Members of the Committee to sample the cuisine so we can determine how good a business person he is.

[Laughter.]

CHAIRMAN LOCKYER: Did you bring any with you?

MR. PESQUEIRA: No, I'm sorry.

We have catered a rather large function up here in Sacramento from San Diego one time.

CHAIRMAN LOCKYER: I notice you also serve on the

1 Zoological Society. I hope there's no connection.

2 [Laughter.]

3 MR. PESQUEIRA: No, but the San Diego Zoo is such
4 a popular zoo and a fantastic zoo, it is a pleasure to serve on
5 that board.

6 CHAIRMAN LOCKYER: Tell us about student fees,
7 and kind of what you see in your years there, and what your
8 current thoughts and attitude might be?

9 MR. PESQUEIRA: It's interesting that with
10 student fees, I happen to have reread a book sometime ago. It's
11 called Good-bye, Mr. Chips or Mr. Chips.

12 And there was a portion in there, and of course,
13 having been a Trustee, that took on greater significance, when
14 the old headmaster left and new headmaster comes in, he's
15 walking with Mr. Chips. And he turns to him and he says, "As
16 you know, Mr. Chips, we will have to raise the fees."

17 And Mr. Chips looked at him and said, "No, you
18 can't do that because the purpose of our existence was to bring
19 in the young men who could not afford to go to the other
20 schools. If you raise their fees, you're going to be cutting
21 them out."

22 I have to say that that struck home very, very
23 solid because the purpose of the California State University is
24 to give an opportunity to that portion of our population that
25 can't get into the Loyolas and the Stanfords. And if we raise
26 fees to a point we're going to cut them out, and then our
27 mission has been dissolved, and we can't do that.

28 So, student fees are something that we have to

1 keep very strongly in mind.

2 CHAIRMAN LOCKYER: I think you'll find a lot of
3 support from most of the Senators for keeping a lid on them to
4 the extent that it's at all possible.

5 Are there other questions from Members? Senator
6 Ayala.

7 SENATOR AYALA: I'd like to ask, you were awarded
8 the 1996 Father of the Year Award?

9 MR. PESQUEIRA: That's right, sir.

10 SENATOR AYALA: How did you get that way?

11 MR. PESQUEIRA: I have three daughters, wonderful
12 daughters.

13 SENATOR AYALA: I have three sons. Go ahead.

14 MR. PESQUEIRA: Two of my daughters are married.

15 SENATOR AYALA: Congratulations.

16 I don't have any questions.

17 SENATOR BRULTE: I'd like to move this nomination
18 and also nominate Ruben as Father of the Year next year.

19 [Laughter.]

20 CHAIRMAN LOCKYER: Senator.

21 SENATOR HUGHES: I'd like to bring up something
22 that I asked the Trustee when I met him in my office.

23 I'm very, very proud of the University of
24 California and the fine research that they do. But I'm also
25 extremely proud of the State University system, because they're
26 the ones charged with the most difficult task of all, is
27 educating our educators.

28 And I told him I thought the University did a

1 fine job of research, and finding out what pathology is, and the
2 many illnesses they're able to treat, and even physicians send
3 their most critical patients to the University when they have
4 given up on them as an individual practitioner.

5 And I asked him if he thought there was any hope
6 that the State University system could rally their brilliant
7 minds and come up with a solution for districts that are under
8 receivership, namely, Compton, and any other district that might
9 be under receivership in the future to be able to solve the
10 problem.

11 I know the Superintendent of Public Instruction
12 has really been working very hard on this issue, but you've got
13 an army of brilliant minds whose expertise is in the field of
14 education.

15 And would you give me the answer that you gave me
16 when I walked in for the purpose of being on the record as to
17 what your commitment is, and what you think the possibilities
18 are that the University system can help us in this instance.

19 MR. PESQUEIRA: Speaking of the Compton
20 situation, because we have three major universities right there
21 that Compton students feed to, after you and I spoke about that,
22 I spent a considerable amount of time just mulling it over in my
23 mind.

24 It's my opinion that we can take Northridge,
25 Dominguez Hills, and Cal State L.A. and it's going to be my
26 intent to talk to Barry Munitz and those presidents about seeing
27 if we can't come up some kind of a charter program which would
28 concentrate on trying to do something specifically for that

1 Compton area in order to ensure that those students can be
2 better prepared so they don't need to have to go through the
3 semesters of remedial education in the CSU.

4 I think we can do that, and we can do that very
5 well in light of the fact that, since we did open the remedial
6 aspect and started looking at that, and one of the charges we
7 gave all of our presidents was to become more involved with
8 their feeder high schools, and more involved with their
9 superintendents, all of our presidents have taken that very
10 seriously.

11 And I think you're going to see a tremendous
12 change between now and 2007, when the Trustee policy kicks into
13 effect. And I was the chair of that committee at the time that
14 we discussed it.

15 I think you're going to see a tremendous change
16 where our universities are going to be reaching down and working
17 in mentorships. We already have some in place. I think we're
18 going to increase them. We're going to be taking more
19 responsibility, and we're going to become more accountable to
20 the State of California for ensuring that students are better
21 prepared before they come to us.

22 Some place like Compton, one of the things as I
23 traveled about the state of California that kept coming back to
24 me was the Compton situation. And it did leave a lasting
25 impression on me. I just could not imagine a complete district
26 going into a receivership as such.

27 And one of the promises I made a couple of
28 students at Dominguez Hills who happened to come out of the

1 Compton system, as they explained to me, they said, "Trustee
2 Pesqueira, how can you possibly want to become firmer on what we
3 need to know to get to the CSU when Compton was not teaching us
4 what we needed to know? It wasn't fair."

5 I made a point when I was reappointed, since the
6 time was so short, I visited Dominguez Hills. And I went in
7 there to talk to students. I promised them I would. I went in.
8 I sat down with students, and we talked about why they weren't
9 being as prepared to come into the CSU. And I had quite an
10 education on the what the problem was in the Compton area.

11 So, as I told you then and this morning, just a
12 few minutes ago, I think it warrants a major thrust at trying to
13 find out what we can do. Because whatever we do at Compton,
14 we'll be able to do much easier on a lot of the other school
15 districts.

16 And I worked very closely with Bertha Pendleton
17 in San Diego. Now, we have similar type problems with some of
18 our high schools down there. But I think with San Diego State,
19 with Dominguez Hills, Cal State L.A., Cal State Northridge,
20 there is no reason why, as you just said, if at the University,
21 the medical problems can be referred back to the students in the
22 medical schools, why can't a social problem be referred back to
23 the California State University? I think it can be. We're
24 going to do something about that.

25 SENATOR HUGHES: All right. I'm very pleased
26 with your answer, but the solution is more complicated than
27 pedagogy.

28 For instance, I think the solution has to deal

1 with what levels of government take responsibility for certain
2 actions.

3 I had a group -- and you don't know this
4 situation because it's happened since I've seen you -- I had a
5 group of City Council persons to come from the City of Compton
6 and tell me that they have been paying for school crossing
7 guards. And that that was the jurisdiction of the local school
8 district, and the local school district had run out of funds, or
9 were negligent about taking care of this responsibility, and
10 they were tired of it not, and they're not going to do it any
11 more.

12 So, it seems as though your Political Science
13 Department should look at what the politics are of a city like
14 Compton that makes it so complicated. It's not just an
15 education situation; it's sort of a political situation where
16 people keep fighting over the jurisdiction of a group that's in
17 intensive care.

18 So, I'm saying to you, it's not as simple as you
19 and I might believe it to be. That there are all these other
20 factions dealing here in this area. I don't think one
21 jurisdiction should be passing the ball back and forth, because
22 ultimately, the patient's in critical care and is dying. Maybe
23 you're going to have to rally some other forces, too.

24 And what do you think about that? That's a tough
25 question.

26 MR. PESQUEIRA: I don't know an answer to that
27 because I don't know what the California State University can
28 do.

1 However, we do have students; we do have
2 ambassadors. It's not something that we should put under the
3 rug, that's for sure.

4 To what degree we can address it, I think that it
5 would be incumbent upon us to try to address it.

6 I really don't know how to even respond to that.

7 SENATOR HUGHES: I just want you to think about
8 it. It's a tough one.

9 MR. PESQUEIRA: Thank you.

10 SENATOR AYALA: One more question.

11 I know that we've lost a lot of top students from
12 our high schools to universities and colleges in other states.

13 MR. PESQUEIRA: That's right.

14 SENATOR AYALA: Is there any merit to providing a
15 scholarship for all valedictorians of our schools to any CSU, a
16 full scholarship for four years so they can stay there that
17 long, to retain some of the top quality students in the state?

18 MR. PESQUEIRA: California State Long Beach is
19 doing that as we speak. They have targeted -- our President
20 Maxson down there has made a point to target valedictorians.
21 And he has been quite successful in convincing them that they
22 should come to Cal State L.A.

23 SENATOR AYALA: All valedictorians from our high
24 schools are offered a scholarship to our University system?

25 MR. PESQUEIRA: That is correct.

26 SENATOR AYALA: I was not aware of that.

27 MR. PESQUEIRA: That is correct. Bob Maxson
28 started that. He's very proud of it. We're very proud of him.

1 I think that because of that, we have seen a
2 slight change in the overall environment on Cal State L.A.
3 because they bring in -- those students bring in an atmosphere
4 that challenges all the students.

5 SENATOR AYALA: That's good. Thank you.

6 CHAIRMAN LOCKYER: What would you consider to be
7 the couple largest challenges or issues facing the system in the
8 next several years?

9 MR. PESQUEIRA: In one word, educating the
10 population of the State of California.

11 I don't mean to be flippant about that, but we do
12 have a problem, as I see it, in that so many students, not only
13 from the high schools but from universities as well, are not as
14 well prepared as they should be when you figure the investment
15 the State of California puts into their education.

16 And periodically, we will have comments from the
17 various business entities in the State of California, and they
18 will remind us that they themselves have got to have some type
19 of program just to bring students up to speed who already either
20 high school or bachelor's degrees because they just don't have
21 the communicating skills. They don't have some of the basic
22 skills, fundamental skills that are necessary just to get into a
23 job.

24 I was talking to Tom Paige, President of San
25 Diego Gas and Electric. And I said to him as we were
26 conversing about the possibility of a Golden State Diploma,
27 which Delaine Eastin and I have talked about considerably over
28 the years, and basically coming up with some kind of a

1 threshholding, where, as you know now, we have K-3; having an
2 accountability at the third grade, then expanding that to the
3 5th grade, then expanding that to the 8th grade.

4 And then during the high school, in conjunction
5 with the California State Universities, testing the students as
6 early the 11th grade so we can find out where their deficiencies
7 are. Then the universities working with those students as best
8 they possibly can.

9 And then coming up with a possibility of a
10 comprehensive high school examination similar to the New York
11 State Regent's Exam, where the high school student who puts
12 forth the effort necessary to get the education in order to go
13 to the university, or if not to the university, just to get out
14 of high school, would receive a California State diploma,
15 basically called the Golden State Diploma. And it would be a
16 very significant diploma. And those students who did not want
17 to put forth the effort would not receive that.

18 And so, I was talking to Tom Page, and he said,
19 "Well, quite frankly, Ralph, we don't hire high school students
20 any more for any position."

21 I thought about the number of positions that San
22 Diego Gas and Electric has that really don't need to have high
23 school education or college education. And yet, San Diego Gas
24 and Electric has opted to go to the college diploma.

25 And I'm not sure what that is telling me. As to
26 the quality of the high school student, I might guess. But even
27 worse, what is it telling me about the bachelor's degree that is
28 being awarded, and what is the value that it has if we have a

meter reader with a bachelor's degree?

So, I think what is the challenges not only for California State University but for the State of California? We've got to really look at how we're educating all up and down, and we have to have some kind of accountability, and we have to have standards.

I serve now on Cornerstones, which is an internal group in the California State University, and I serve on the Committee on Standards and Assessments. One of the things we're looking at is higher standards, even to the point of maybe -- I graduated, or I received my bachelor's degree from Abilene Christian University in Abilene, Texas, even though I entered the University at San Diego State. We had there a comprehensive examination before we could graduate, before we could receive a bachelor's degree. And I was in business, and that was a two-day examination because accounting took one full day.

And I've been approaching the Faculty Senate about this idea of could we possibly come up with a comprehensive examination to hold the student accountable to what they have learned? Now obviously, we've got to be able to teach them in order to hold them accountable. So, I think it would be a double barrel if we had some type of comprehensive examination.

So, I think that it's time for us now to examine very closely and very clearly what is coming out of our schools at all levels.

CHAIRMAN LOCKYER: So quality, standards, and evaluations seem to be your emphasis.

1 MR. PESQUEIRA: Boy, yes, sir. Accountability to
2 the State of California.

3 CHAIRMAN LOCKYER: Other questions.

4 Is there anyone present who wishes to comment at
5 all.

6 Other questions from Members?

7 What's the pleasure of the Committee?

8 SECRETARY WEBB: We have a motion by Senator
9 Brulte.

10 CHAIRMAN LOCKYER: We have a motion on it to
11 recommend confirming. Call the roll.

12 SECRETARY WEBB: Senator Ayala.

13 SENATOR AYALA: Aye.

14 SECRETARY WEBB: Ayala Aye. Senator Brulte.

15 SENATOR BRULTE: Aye.

16 SECRETARY WEBB: Brulte Aye. Senator Hughes.

17 SENATOR HUGHES: Aye.

18 SECRETARY WEBB: Hughes Aye. Senator Lewis.

19 SENATOR LEWIS: Aye.

20 SECRETARY WEBB: Lewis Aye. Senator Lockyer.

21 CHAIRMAN LOCKYER: Aye.

22 SECRETARY WEBB: Lockyer Aye. Five to zero.

23 CHAIRMAN LOCKYER: Good luck.

24 MR. PESQUEIRA: Thank you very much.

25 [Thereupon. This portion of the
26 Senate Rules Committee hearing was
27 terminated at approximately 3:31 P.M.]

28 --ooOoo--

CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 14th day of January, 1997.


EVELYN J. MIZAK
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17 2:20 P.M.

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26
27 Evelyn J. Mizak
28 Shorthand Reporter

APPEARANCES

MEMBERS PRESENT

SENATOR WILLIAM LOCKYER, Chair

SENATOR JOHN LEWIS, Vice Chair

SENATOR RUBEN AYALA

SENATOR JAMES BRULTE

SENATOR TERESA HUGHES

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

JACQUELINE E. SCHAFER, Director
Department of Fish and Game

AARON READ
California Association of Professional Scientists

JOHN GRANT, Treasurer and Past President
California Association of Professional Scientists

DAVE GARDNER
California Fish and Game Wardens Protective Association

JOHN McCAULL, Legislative Director
National Audubon Society

ALAN WILHELMY
California Striped Bass Association

LEW PENGILLY
California Striped Bass Association

BILL GAINES, Director, Government Affairs
California Waterfowl Association

MARK J. PALMER, Director
Wildlife Alive/Earth Island Institute

APPEARANCES (Continued)

VIRGINIA HANDLEY
The Fund for Animals

STEVEN G. BAKER, Member
Board of Prison Terms

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P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN LOCKYER: Ms. Schafer, Director of Fish and Game, is the confirmation on clock that is the shortest or it's run the longest, however you want to say it.

So, I think that Craig, at least we'd better let you go on to whatever your other tasks are and invite you back at a subsequent hearing, allow for your coronation at a future event.

I hope we'll get to Mr. Baker, but I've got to see how the Schafer interview goes. We'll play it by ear.

Let's start with that, Madam Director, if you'll come on up. We will skip the various other issues that are on your calendar -- reference of bills and so on -- and get to those tomorrow morning if it works for all Members.

Hi.

MS. SCHAFFER: Good afternoon.

CHAIRMAN LOCKYER: Do you want to start with any kind of comment or statement.

MS. SCHAFFER: Thank you very much, Mr. Chairman, Members of the Rules Committee.

My name is Jacqueline Schafer. I was appointed by the Governor on February 20, 1996, to be the Director of the Department of Fish and Game.

I've appeared before this Committee before, and I know that you're acquainted with my background, and all of you have that material, so I won't review my qualifications history.

1 I just want to make myself available to answer
2 questions that I know the Committee has for me.

3 There are many issues that we at the Department
4 of Fish and Game face. On a day like today, and like so many
5 that we've had recently, floods and flood control are among the
6 natural resources issues that most immediately come to mind.
7 Traditionally, water resource issues are at the top of the list
8 of critical environmental and economic matters that face
9 California. And also commercial fishing, as well as
10 recreational issues recreational fishing and hunting remain
11 important and vital to California's future.

12 The fiscal issues in the budget for the
13 Department of Fish and Game to deal with these matters are also,
14 likewise, complex.

15 One of most -- one of the issues that I've most
16 frequently encountered as I have learned this job and become
17 acquainted with the multiplicity of issues facing this
18 Department in the past eleven months has to do with the
19 protection of our natural heritage of wildlife habitat.

20 As this Committee well knows, since the 1991
21 enactment of the California statute called Natural Communities
22 Conservation Act, this state has been a pioneer in the
23 protection of biodiversity through a multi-species landscape
24 approach, which we believe will best achieve the goals of
25 long-term species protection.

26 The NCCP process, as it's called, is an
27 anticipatory multi-species approach which addresses acknowledged
28 shortcomings in the traditional species protection processes.

1 And particularly in the coastal sage scrub area in Southern
2 California, primarily in Orange County and San Diego County, but
3 also in some areas of Los Angeles County, we are demonstrating
4 the feasibility of this ecosystem-wide planning to protect
5 hundreds of thousands of acres of wildlife habitat.

6 This has overcome some of the deficiencies, such
7 as the kind of critical care, emergency room-like methods which
8 had resulted in disconnected patches of habitat often too
9 isolated to be useful in preserving biodiversity, but which was
10 the result of our previous approach. While this habitat
11 supports several species listed as threatened or endangered, the
12 real success of the program is that the habitat is being
13 preserved for many more species that are not listed and will not
14 reach the point of needing to be listed.

15 We've also been using the process under the
16 California Environmental Quality Act to protect habitat, and
17 under CEQA, impacts to wildlife habitat must be mitigated to a
18 level of insignificance before a project can be approved.

19 Mr. Chairman, I would want to continue on this
20 basis, but I know that you have questions that relate to this
21 issue. I just want to make a point at the outset that I
22 consider the protection of habitat fundamental to our mission of
23 the Department of Fish and Game, not only in meeting our public
24 trustee agency responsibilities, but also providing the
25 opportunity for recreational hunting and fishing, which is part
26 of our traditional role. It dates back to the 1870s in
27 California.

28 There are funding issues also that relate to our

1 organization of the people that work for the Department of Fish
2 and Game, whether they be our biologists, or our wardens, or the
3 administrative support, to do this job and accomplish this
4 mission in a successful and effective way.

5 We have produced a budget request which is before
6 this Legislature now, will be reviewed by the Budget Committee
7 in the coming months. And I believe that it is a balanced
8 approach to address our mission of habitat conservation, hunting
9 and fishing recreational opportunities, and opportunities that
10 are related to that found on our wildlife areas and ecological
11 reserves, and also to try to improve the resource base for our
12 people to do their jobs properly, operating expenses and
13 equipment, ability to do overtime to increase our presence in
14 the ocean environment, which has been neglected through budget
15 reductions that we've experienced in the past, and I believe
16 will start us down a road of equipping people to do the job for
17 California's fish and wildlife resources in the way that the
18 Legislature would expect us to do it.

19 CHAIRMAN LOCKYER: Thank you for your opening
20 comments.

21 I think there probably are a number of
22 questions. Have you seen Senator Hayden's letter that we just
23 received?

24 MS. SCHAFER: No, sir, I have not. I did speak
25 to him last evening, and he did tell me that he would have
26 questions, but I have not been privy to them until now.

27 CHAIRMAN LOCKYER: He's not here, but he has
28 submitted a kind of long list of questions which, at some point,

1 it might be appropriate to raise.

2 But first let me ask if there are Members of the
3 Committee that have questions that they'd like to begin with?
4 Senator Ayala.

5 SENATOR AYALA: Mr. Chairman, this is in
6 reference to Department funding.

7 There is, through license and permit fees, and
8 vessel registration, monies that are restricted for specific
9 programs, for instance, salmon restoration and so forth.

10 My understanding is that the Department has been
11 borrowing money from these funds illegally and not restoring
12 them as it should be. According to the State Auditor in 1995,
13 the Department of Fish and Game Report, that it had shifted
14 restricted funds from dedicated accounts to fund purposes other
15 than legally intended.

16 Can you give us an explanation.

17 MS. SCHAFER: Let me first say to you that we are
18 complying with the report of the Bureau of State Audits, the
19 Auditor's report, and have completely repaid any funds which
20 were borrowed from the dedicated accounts with interest.

21 SENATOR AYALA: That has come to a stop?

22 MS. SCHAFER: The practice has come to an end,
23 and those funds have been completely repaid with interest where
24 appropriate.

25 Furthermore, we have in place now a dedicated
26 funds manager as part of our administrative staff whose job,
27 among other things, is to see that those funds are properly
28 administered, properly accounted for, and properly reported to

1 the oversight committees of the Legislature and budget
2 committees.

3 Just as background, the Department's budget
4 situation is very complex. We have a Fish and Game Preservation
5 Fund which has 24 different accounts, one of which is the
6 nondedicated portion, the larger portion of the account, and
7 there are 23 smaller accounts, dedicated accounts. And it was
8 the management of those smaller area accounts but which have
9 very specific statutory requirements for how they are to be used
10 that were an issue here.

11 We've corrected all of those accounting and
12 fiscal practices that were inappropriate, and I don't believe
13 that there's any reason for that to happen again.

14 SENATOR AYALA: I'm told that in recent years,
15 the Department's been cut back on warden and biologist
16 positions. At last count there were some nine deputies and
17 assistant directors. Less than 20 years ago, there was only one
18 deputy director and no assistant directors.

19 Are you top-heavy there with administrators?

20 MS. SCHAFER: There were several positions in my
21 office when I came to the Department. There were people who had
22 been with the Department for many years, career employees, who
23 were in deputy positions. Also there were positions added by
24 the Legislature by statute to administer new programs. For
25 example, the Oil Spill Prevention and Response Program has both
26 an administrator and a deputy administrator which are provided
27 by law. Also, there are individuals who serve the Wildlife
28 Conservation Board which has been in existence since the 1940s,

1 and one individual is the executive director for that; the other
2 is the executive director for the Fish and Game Commission,
3 which is a separate entity.

4 In my office, there are two deputies right now,
5 and there were more. However, three individuals have since left
6 the Department, and so I'm operating with two deputies at this
7 point in time. The others are in the position by statute.

8 I'm sorry, there are also two other positions
9 that might be called deputies, I want to correct that. One is
10 the assistant who handles legislative affairs, external affairs,
11 including all the legislation that comes through the
12 Legislature, and the General Counsel. Those two are also
13 considered deputies.

14 SENATOR AYALA: Two deputies?

15 MS. SCHAFER: Two deputies, plus a legislative
16 director and a general counsel.

17 SENATOR AYALA: Is the work growing to the point
18 where all these deputies are necessary? Twenty years ago, you
19 didn't have any deputies.

20 MS. SCHAFER: Well, I think that all of these
21 people would agree that they are fully employed, Senator. And
22 indeed, the number that were in my office from the time that I
23 came here has been reduced by three since last February. So,
24 that's just the change that has been made, and I think that we
25 can operate with the level of staffing that we have now.

26 SENATOR AYALA: Are there any special interests,
27 for instance, the timber industry, who receive services from the
28 Department that do not pay fees? They should be financially

1 contributing to the operation of the Department.

2 Are there some special interest groups that don't
3 pay fees? I mentioned the timber industry for one.

4 MS. SCHAFER: There are many organizations and
5 individuals that pay fees. The Department is largely fee-funded
6 or we receive reimbursements from the -- from departments of the
7 federal or state government for activities that we provide for
8 them. And also, we receive federal funds under two very
9 important long-standing programs to support sport fish
10 restoration and habitat for game and wildlife.

11 There are services that we provide under our
12 trustee agency responsibility which are not fully compensated,
13 and the rest of the Department's sources of funds are certainly
14 used to support those activities.

15 You've touched on an issue that I believe is one
16 of the key ones that I'm going to have address as the Director
17 of Fish and Game, and that is finding a long-term stable source
18 of funding appropriately raised to perform some of the
19 activities which heretofore have not had their own dedicated
20 sources of funds, or have in effect not been appropriately
21 raised under the terms of the Fish and Game Code under Section
22 711 of the Code, which requires that hunting and fishing
23 revenues be used for hunting and fishing programs, and that
24 nongame programs be raised from general fund or nonhunting and
25 fishing based sources of funds.

26 SENATOR AYALA: These interests will continue to
27 be exempted from any fees as we go along and still get to be
28 served by the Department?

1 MS. SCHAFFER: As we develop a source of funds
2 that will finance these nongame activities, environmental
3 review, California Environmental Quality Act review-type
4 responsibilities, I believe that we should look at all sources,
5 including those which receive a service through the timber
6 industry.

7 SENATOR AYALA: There's no plans to charge them
8 for the work that you perform for these special interest groups?

9 MS. SCHAFFER: There are charges that are paid.
10 For example, we do stream bed alteration agreements where an
11 activity, including timber, may have an impact on the quality of
12 a stream crossing, and they are compensated for it.

13 But for review of the timber harvest plans, that
14 is considered CEQA type of activity which is not separately
15 funded at this time.

16 SENATOR AYALA: I understand the Department and
17 the administration refused to seek California's share of the
18 federal Northwest Emergency Assistance Program monies. As a
19 result, the state was awarded only \$700,000 instead of the \$2-3
20 million that they would have received. Oregon and Washington
21 have been awarded their full share of NEAP funds in excess of 3
22 million each.

23 Is there any reason why we didn't seek those
24 funds from the federal government?

25 MS. SCHAFFER: As I understand the source of these
26 funds, they were emergency funds that were available to three
27 states in the west: Washington, Oregon and California. They
28 are distributed at the complete discretion of the federal

1 government through the Commerce Department, and California did
2 receive a share of those funds. And there's not any reason for
3 me to believe that that would have been different under any set
4 of circumstances.

5 The Department has enjoyed support through these
6 funds, and the activities that the Department is interested in
7 seeing done, including habitat restoration in the northwestern
8 part of the state where the timber industry has been adversely
9 affected by listings and restrictions, we would like to see more
10 work done. And the Governor has a watershed initiative which
11 will support the kinds of restoration activities that these
12 federal funds also supported in the past.

13 Those federal funds, it's not a source of funds
14 that we can depend on. It was an one-time, as I understand it,
15 a one-time influx responding to a disaster situation.

16 We now have in our budget proposal funds for not
17 only the Department of Fish and Game, but the Department of
18 Forestry and Fire Protection, the Department of Conservation,
19 and the State Water Resources Control Board, which we believe
20 brought to bear on restoring habitat in the Pacific Northwest,
21 in the northwestern part of California, that would have been the
22 target area for those federal funds that you're also describing.

23 SENATOR AYALA: Is there any intention to go
24 after these funds? Wouldn't that be equitable, to have the same
25 type of funding that the other states on the West Coast have?

26 MS. SCHAFFER: We have often sought funds for
27 activities from the federal government through Section 6 under
28 the Federal Endangered Species Act, cooperative agreements with

1 the Fish and Wildlife Service which benefits that area, and also
2 with the National Marine Fisheries Service.

3 We will continue to seek federal funds. It's an
4 important source of funding for the Department. To the extent
5 that the Congress appropriates those funds, California will
6 always seek its own fair share.

7 SENATOR AYALA: The Superior Court in 1995
8 authorized the state to collect Section 01 and Section 03
9 environmental review developer fees.

10 Have you gone after those funds? I think it's
11 estimated at \$6 million, 6 to 9 million annually for the
12 Department of Fish and Game. Have you planned to go after those
13 monies?

14 MS. SCHAFFER: Shortly after I was appointed last
15 February, we were advised by the Attorney General to resume
16 collection of those fees based on that court decision that
17 you're referring to, Senator.

18 We did send a letter to the lead agencies. In
19 this case, the counties in particular are the lead agencies
20 which have been collecting the fees under a bill called AB
21 3158. We have continued to pursue collection of those fees, but
22 this issue as to whether or not the assessment was a fee or a
23 tax is on appeal here in California. We consider the law to
24 still be in effect and are acting accordingly.

25 However, I have to give the Committee some
26 background. The intent of 3158 legislation was to provide
27 funding for our nonhunting and fishing activities. It was
28 designed to generate about \$10.6 million a year.

1 Over the course of the early 1990s, the actual
2 collections came at much less than what was anticipated. The
3 best year it was \$4 million, but the average was about \$3.4
4 million. So, to continue to be able to depend on the 3158
5 program, even if it survives the court challenge, which it may
6 not -- can't predict the outcome on that -- it's not the secure
7 source of funding for our nonhunting and fishing activities that
8 I think the Legislature anticipated it would be.

9 I know that the author, Senator Costa, is
10 considering making some changes and finding an alternative to
11 that. And I also understand that Senator Thompson, in his
12 capacity as Chairman of the Budget Committee, is also looking
13 for some alternatives.

14 So that, although we continue to press the lead
15 agencies and try to account for those fees, over the long haul
16 it is not going to be a secure source of funds, and we probably
17 need to look elsewhere unless we can redesign a fee system. But
18 our own view is that even then it may not be enough to run the
19 program.

20 SENATOR AYALA: Thank you. I have no more
21 questions.

22 CHAIRMAN LOCKYER: Senator Lewis.

23 SENATOR LEWIS: Ms. Schafer, I've been reviewing
24 Senator Hayden's letter of opposition. One of the concerns he
25 spends some time talking about is coho salmon, and his belief
26 that you have not done a sufficient job in protecting the coho
27 salmon.

28 I have two questions. One, he talks about the

1 federal listing of central California coho salmon as a
2 threatened species.

3 Can you tell me what the differentiation is
4 between a central California coho salmon and a northern
5 California coho salmon? Are northern California coho salmon not
6 listed? What is the difference there?

7 Secondly, apparently there's some division in the
8 scientific community about whether or not the central California
9 coho salmon is in decline or increasing in population right
10 now. I'm wondering where you come down on that?

11 MS. SCHAFFER: Certainly, over historic time,
12 considering the populations of native fishes in California,
13 there has been a decline historically.

14 But the situation is that the National Marine
15 Fisheries Service in October decided -- they've had a number of
16 what they call ecological -- I'm sorry -- evolutionarily
17 significant units, ESUs, where they've assessed differences in
18 the biology of the stocks of the coho, not only in California
19 but in Oregon and Washington. And they looked at the coho as a
20 whole, but divided the populations up into these evolutionarily
21 significant units.

22 With the information that they had -- and much of
23 that information was generated by the research science performed
24 by the Department of Fish and Game in California -- they did an
25 assessment and determined through the federal Endangered Species
26 Act process to list the coho in the central ESU, evolutionarily
27 significant unit, but to delay for six months a decision on
28 whether they would list in what they call the transboundary

1 ESU, transboundary being northern California, that is Humboldt
2 and Del Norte Counties, and the southern counties in the State
3 of Oregon.

4 That decision is still pending, and they are
5 expected to be making that in the coming months. I believe April
6 is the deadline on that.

7 At the same time, they are also looking at the
8 steelhead populations not only in California but also Oregon and
9 Washington. I believe they have ten different evolutionarily
10 significant units that they're examining steelhead with the idea
11 some of those may need to be listed as threatened or
12 endangered.

13 In California, they did go ahead and list the
14 central ESU as threatened and imposed what's called a Section 9
15 prohibition on take of coho salmon. That will place a
16 significant burden on activities in that part of the state in
17 order to avoid taking the salmon.

18 We would like to work with the National Marine
19 Fisheries Service cooperatively to develop a long-term plan
20 under Section 6 of the Federal Endangered Species Act, and using
21 authority in Section 4(d) of the Federal Endangered Species Act
22 which would authorize incidental take, but also begin to restore
23 those stocks of salmon in the California central coast. They
24 have been depleted, and we know that a number of activities can
25 be brought to bear to help in the restoration.

26 One of the goals of the programs that are laid
27 out in the Governor's Watershed Initiative that I spoke of
28 earlier is the restoration not only of habitat to protect the

1 coho, but the steelheads that are possibly going to be listed,
2 depending on what NMFS's decisions are, and also the associated
3 aquatic and terrestrial species that make up the entire ecosystem
4 of the watersheds in the central and northern California coast.

5 We think that using those tools in the Federal
6 Endangered Species Act and the landscape multi-species approach
7 that we're trying to take here, that I made a reference to in my
8 opening statement, will provide a sound basis for conservation
9 of these species and the habitats on which they depend, and
10 their ultimate recovery.

11 I hope that answers your question. It's a rather
12 long, complicated situation, and there are going to be many
13 species that will be reviewed by NMFS.

14 SENATOR LEWIS: Did I understand you to say that
15 there are only two of these evolutionarily significant units
16 regarding coho salmon, but there might be ten different ones
17 with regard to steelheads?

18 MS. SCHAFER: With steelhead there are ten
19 different ones in the three northwestern states that they are
20 considering for listing.

21 SENATOR LEWIS: How many in California?

22 MS. SCHAFER: I believe five. I could be wrong;
23 it could be six. And they have proposed -- they have a proposal
24 that they are working through now through the public comment
25 process --

26 SENATOR LEWIS: As a practical matter, if there
27 is a listing of two of five, or three of five of steelhead, if
28 you're a fisherman, do these different evolutionary units, do

1 they cohabitate, or they've developed differently in different
2 bodies of water.

3 As a fisherman, how are you supposed to know what
4 you can legally take and what you can't when you break it down
5 to five different or ten different units of steelhead, for
6 example?

7 MS. SCHAFER: Well, we would certainly, in
8 connection with a Section 4(d) agreement, develop some guidance
9 on what could be taken. We would then later incorporate that in
10 basically our state sport fishing regulations.

11 SENATOR LEWIS: Do you need to be a biologist to
12 tell the difference in those ten different types of steelhead?

13 MS. SCHAFER: We will let people know by virtue
14 of where the populations are located, and what segments of the
15 stream that they might be allowed to have access to fish. Those
16 kind of things are detailed in our sport fishing regulations
17 now.

18 And we certainly have taken steps to try to
19 protect species that we believe would be adversely impacted by
20 sport fishing, and we've restricted areas. There are in some
21 places no sport fishing allowed in order to protect certain
22 species and populations of species. In others, we've limited
23 the ability to take. The bag limit, basically, is limited. The
24 size limit is -- the sizes are limited in order to avoid impact
25 on the reproductive success.

26 SENATOR LEWIS: How many years ago was it
27 determined there were ten different evolutionary --

28 MS. SCHAFER: This is a convention relatively

1 recently developed by the National Marine Fisheries Service in
2 executing the Federal Endangered Species Act at the federal
3 level. We are commenting through the regulatory process on the
4 appropriateness of those designations by National Marine
5 Fisheries Service, and our views will be taken into
6 consideration as they fully develop their regulations.

7 SENATOR LEWIS: Is it possible with better
8 science that 10 years from now, we might have 100 different
9 identified species of steelhead?

10 MS. SCHAFER: We certainly are, with improvements
11 in science and particularly in genetic improvements, being able
12 to distinguish more and more between the various stocks and
13 their life histories, and where they came from, and --

14 SENATOR LEWIS: At what point do we reach the
15 point of absurdity?

16 MS. SCHAFER: I think that the thing to keep in
17 mind is that by working on a watershed based approach locally,
18 from the bottoms up, to identify what is really needed to
19 restore habitat, I think that we can address -- and we have
20 plans to do this. We've developed them through our biological
21 staff.

22 We have a steelhead recovery plan that was
23 approved earlier this year. It gives us an idea of what we can
24 do when the occasion arises to improve habitat for these
25 species.

26 It may be something as straight forward as
27 installing a fish ladder so that access to the upper reaches of
28 a stream can be achieved. It may be that, if there's an

1 occasion to remove an old dam that's no longer used, we could
2 restore access to traditional spawning areas, and thereby
3 recover, you know, in each watershed, the different species.

4 We think that there are opportunities, and with
5 the great focus that we now have on restoring habitat and
6 recovering habitat, with the opportunity we have, for example,
7 under Proposition 204 in the Central Valley, we are finding ways
8 to make improvements that I think are going to be instrumental
9 in bringing back these populations, regardless of what NMFS does
10 with respect to regulating under the Federal Endangered Species
11 Act.

12 SENATOR HUGHES: I was going to ask the question
13 that I think you just answered about what were you doing to
14 influence the distribution of water, and how it's allocated here
15 in the state.

16 Being from Southern California, we know we rely
17 on Northern California. And you're saying from all of these
18 watersheds that you have here in Northern California, you're
19 thinking of how utilizing them effectively to see that this
20 habitat is the restored and protected. Is that your answer?

21 MS. SCHAFER: The issue of water allocation in
22 the state, of course, is one of the biggest natural resource
23 issues that the state faces.

24 Our traditional role has been to participate in
25 the State Water Resources Control Board's water rights
26 allocation process. It's a regulatory process. And we will do
27 that and we'll continue to do that.

28 But over time, and I believe really we reached a,

1 pardon the pun, a watershed in the way we've approached this in
2 the Bay-Delta Accord that was executed here in California in
3 1992. That is, the federal government and the state government,
4 all of the agencies responsible for not only providing water but
5 also protecting fish and wildlife habitat, and the private
6 sector, have come together in a process called the Cal-fed
7 process, which I believe is making some excellent strides in
8 developing long-term plans to resolve the water issues in terms
9 of allocation and habitat restoration in California.

10 It is an unprecedented kind of activity that has
11 a lot of promise, and we are certainly participating fully in
12 that as a member of that Cal-fed process, both at the technical
13 level and the policy level.

14 SENATOR HUGHES: Do you have any plans for doing
15 anything different now that we've got more water than we know
16 what to do with? And you certainly have goals and objectives
17 that you need to reach.

18 Are you going to make any new recommendations
19 where the flow is heavy and getting heavier?

20 MS. SCHAFER: Where fish are concerned, I know
21 this is probably not a day to say it, but more water is better
22 in general over the long term. So, we are benefitting
23 significantly by the increases in water and the water experience
24 that we've had here for the past three years.

25 We've got some other problems to deal with in
26 terms of containing it and controlling that, and we're certainly
27 addressing that as well.

28 We'll take advantage of the improvements in water

1 flow that will result from three consecutive years of good water
2 in terms of doing this kind of habitat restoration and fisheries
3 stock restoration throughout the Central Valley, both in the
4 Sacramento Valley and in the San Joaquin Valley.

5 SENATOR HUGHES: Now, I'm going to ask a really
6 dumb question. Why are we getting all the whales now? How do
7 you account for that? What is happening, and are you going to
8 be involved in that at all?

9 MS. SCHAFFER: Well, the National Marine Fisheries
10 Service does have authority over Marine mammals. So, many of
11 those issues are being addressed at the federal level.

12 To the extent that they show up on the California
13 coast, as you know that very successful story where Sea World
14 was able to recover the baby whale, and it seems to be doing
15 very well there; although obviously, if it's going to grow
16 whatever it was, 260 pounds in a couple of weeks, it's not going
17 to survive long in even the best of private entity's captivity.
18 But they've got some plans for that as well, as I understand
19 it.

20 We certainly are involved in protecting and
21 working with the National Marine Fisheries Service. And our
22 budget proposal has a recommendation in there that we
23 participate with them in protection of marine mammals and other
24 species in connection with routine fishing activities. We want
25 to make sure that those are not compatible. And so, we do play
26 a role with the federal government, and we certainly are working
27 with the private institutions that have done such good work in
28 terms of marine restoration.

1 SENATOR HUGHES: So, you think that the
2 partnership that you have now with the private institutions and
3 the federal government is sufficient enough to reach your goals
4 and objectives?

5 MS. SCHAFER: I think that there are always
6 opportunities that we should be out there pursuing, but I think
7 that we have a good track record of cooperation. Given the
8 enormous resources that are going to be needed to address marine
9 issue in general, the more partnerships and joint ventures that
10 we can forge, the better off we are, more resources can be
11 brought to bear in an efficient way, and, I think, in an
12 effective way.

13 Multiplicity of responsibilities among government
14 agencies out there needs to be coordinated, and I think we would
15 all be better off if it were. So, we will pursue those, but I'm
16 confident that we're on the right track.

17 SENATOR HUGHES: In other words, you think it's
18 flowing in the right direction, I mean, to make your job easier?

19 MS. SCHAFER: There's so many examples that I
20 could bring up in response.

21 Under the Oil Spill Prevention and Response
22 statute that passed in 1990, we have a program now that has been
23 working cooperatively all up and down the California coast,
24 dealing with the restoration and saving of marine mammals that
25 might have encountered an oil spill or a problem along those
26 lines. And that's all done in cooperation with the private
27 sector. We help provide financial support for those, and we're
28 in process of constructing a veterinary -- wildlife veterinary

1 facility in Santa Cruz that will be state-of-the-art. These
2 are -- these institutions have been established in the last five
3 or six years up and down is the coast. We're in better shape
4 than ever to be able to respond to adverse impacts on marine
5 mammals and the marine environment.

6 That's just an example of some of the good news
7 that we have experienced in the last few years.

8 SENATOR HUGHES: Thank you.

9 CHAIRMAN LOCKYER: I have some thoughts about
10 process, and I apologize for the fact that many, many weeks ago
11 I promised to go to Los Angeles this afternoon. I wonder when
12 you do it why I agreed to that then, but as is the best
13 explanation of all human folly, it seemed like good idea at the
14 time. So, I apologize for having to leave.

15 I note that we have a letter from Senator
16 Hayden. Since he chairs at least one of the policy committees
17 that's most relevant in this area, he has commentary and 13
18 questions.

19 I'm thinking that maybe the best way to deal with
20 that would be to ask you, perhaps, to respond in writing to
21 them. It's sort of unfair, I think, to pop that in front of you
22 in the midst of a hearing without any opportunity. Though
23 you've been very quick to respond to Member's questions with
24 considerable detail, it just seems more appropriate to do it
25 that way. Perhaps I could give you those, and you've got them,
26 I believe.

27 I think the Members of the Committee have asked
28 the questions that they had intended to ask. There are some

1 that I have, but they're sort of covered by the statement in
2 front of you from Senator Hayden. So, it would be duplicative
3 to do it orally and in writing.

4 I thought we could take any testimony from
5 people. I know there are some groups present that would like to
6 get on the record as reflecting their position. And then,
7 assuming that you can turn around responses in a short amount of
8 time, we can reschedule it for next week or the week after
9 that.

10 SENATOR BRULTE: Senator, in terms of the
11 process, would the completion of the questionnaire, the
12 so-called Hayden questionnaire by Ms. Schafer, would that
13 conclude the Committee's questioning?

14 CHAIRMAN LOCKYER: It may be there'll be some
15 questions that the arise in response to those answers or
16 something, so we'll probably have to schedule some at least
17 brief opportunity to follow up on some of the matters.

18 Just so it's not confusing or misleading to
19 anyone, it's my expectation that the Director will be
20 confirmed. But I think it's fair to have a thorough public
21 discussion of the numerous issues that have been raised.

22 Since it's a little unfair to plop this on you
23 and expect a response, I think it's a better way to do it. I'd
24 also like to read or hear them personally.

25 But if the Vice Chair will continue just to make
26 sure we get any witnesses on the record, if there are other
27 things you haven't commented on that you want to get on the
28 record, Ms. Schafer, I want you to be able to do that, too, or

1 if you hear something from a witness to which you'd wish to
2 respond.

3 SENATOR BRULTE: Another question in terms of
4 timing.

5 If we're two weeks away then from our next
6 hearing, would it be appropriate to take up Mr. Brown or Mr.
7 Baker today? Since Mr. Brown has been the Director of Finance,
8 the state hasn't been in debt. I think that's a good thing.

9 CHAIRMAN LOCKYER: Actually, they may be wrong
10 about that.

11 They have plenty of time on the clock, though.
12 So, we have a little more time with them.

13 If the Committee is able to consider Mr. Baker
14 today, I think that would be appropriate. There are probably
15 some who wish to comment and testify with respect to that
16 matter, too.

17 Senator Lewis, if you could.

18 SENATOR LEWIS: Let us proceed. At this point
19 I'd like to invite up anybody who'd like to testify in behalf of
20 Ms. Schafer's confirmation. Let's begin with Mr. Read.

21 MR. READ: Thank you, Mr. Chairman and Members.
22 Aaron Read representing the California Association of
23 Professional Scientists.

24 It gives me great pleasure to introduce to you
25 our past President of the Association and a marine biologist
26 himself, Mr. John Grant, who works in the Department, is
27 intimately familiar with things in the Department of Fish and
28 Game. So, I would like to introduce Mr. Grant.

1 SENATOR LEWIS: Welcome.

2 MR. GRANT: Thank you, Aaron, and thank you,
3 Senators for letting me speak here today.

4 As Aaron said, I've been a past President of CAPS
5 three times. I'm currently Treasurer. I've been at Fish and
6 Game for 25 years, mostly as a marine biologist. I'm currently
7 in the Office of Oil Spill Prevention and Response in Southern
8 California, Los Angeles and Orange Counties, working on
9 environmental response to spills in those areas.

10 CAPS represents 2500 employees in 29 departments
11 throughout the state; 350 of those employees are in Fish and
12 Game, and I'm proud to say I'm one of those.

13 I'm not proud to say that in the last ten years,
14 Fish and Game has basically abrogated its responsibility to the
15 resource, the people of California, and its responsibilities
16 under the Constitution. We've lost habitat, resource. We have
17 mismanaged the marine resources to the point where we have
18 declining stocks across the board.

19 My colleagues, the game wardens, don't have
20 vessels to go out and patrol in. They have no gas to run their
21 patrol vehicles in. We have systematically recently dismantled
22 the Environmental Services Division, which is charged with
23 protecting the environment that's important California.

24 I think perhaps the most important reason for
25 that is that the management of Fish and Game for the last number
26 of years has become one of yes-men and people -- and I say men
27 advisedly, because there've been darn few women in Fish and Game
28 in management until recently. But basically, Fish and Game

1 management has not been one to ask the hard questions or answer
2 the hard answers.

3 I think if you asked the Fish and Game what's
4 wrong with them, the managers, they would say that it's unfunded
5 legislative mandates; it's your fault. It's the fact that the
6 license-buying public aren't buying licenses; it's the public's
7 fault. And morale is so bad; it's our fault.

8 That isn't the answer. The answer is that if
9 they got out there and did the job more selectively and harder,
10 we'd do a better job managing our resources.

11 During my time in CAPS, we have sued the
12 Department four times in court about environmental and work
13 issues. We've been successful or had settlements in our favor
14 every time, which means we've been right. We continue to do
15 that.

16 When we came out in support of Jacqueline
17 Schafer, I'd been getting a lot of comments from my members
18 saying, what are you doing? We just sued her last week, and now
19 we're supporting her.

20 We will continue to take action against the
21 Department when the Department goes awry, but perhaps because of
22 all of this and in spite of this, we're supporting Jacqueline
23 Schafer for Director. We believe she's an honest person. She
24 has great administrative skills. She has a great command of
25 detail as you heard today, and we think she'll do a good job as
26 Director.

27 I've been up four times for different directors
28 over the years, and this is the first time I really believe

1 strongly in the person I'm endorsing.

2 Thank you for your time.

3 SENATOR LEWIS: Thank you very much.

4 Additional witnesses in favor of confirmation?

5 MR. GARDNER: Mr. Chairman, Members of the
6 Committee, my name is Dave Gardner. I'm with the California
7 Fish and Game Wardens Protective Association.

8 I've been a game warden for 23 years. And to my
9 knowledge, this is the first time our association has come
10 before you to endorse confirmation of the Director of our
11 Department. We're proud to do that today.

12 We believe that Ms. Schafer is taking us in the
13 right direction, and that with her assistance, we'll be able to
14 provide the warden force and the equipment necessary for us to
15 protect the resources of the state.

16 We urge you to vote for her confirmation.

17 SENATOR LEWIS: Thank you very much.

18 Next please.

19 MR. MCCAULL: Thank you, Senator. My name is
20 John McCaull, Legislative Director for the National Audubon
21 Society.

22 We're in support of Ms. Schafer as Director. And
23 just as you heard from the Association of Professional
24 Scientists, we're not here necessarily to defend the record of
25 Fish and Game, but we believe Ms. Schafer will take the
26 Department in the right direction and look forward to working
27 with her.

28 Thank you.

1 SENATOR LEWIS: Thank you.

2 Next, please.

3 MR. WILHELMY: Good afternoon, Members of the
4 Committee. I'm Alan Wilhelmy. I'm an attorney and a fisherman
5 from Walnut Creek. And I'm a member of the State Board of
6 Directors for the California Striped Bass Association.

7 The California Striped Bass Association, or CSBA,
8 has endorsed Ms. Schafer, and we hope that you vote to confirm
9 her appointment as Director of the Department of Fish and Game.

10 In order for you to understand our endorsement,
11 I'd like to give you a brief background on our organization and
12 our dealings with Ms. Schafer in the past year which demonstrate
13 her leadership abilities.

14 The CSBA is dedicated to the preservation,
15 conservation, and the enhancement of the striped bass. Our
16 organization was formed over 20 years ago as a result of the
17 declining striped bass population due in large part to the
18 pumping activities of the state and federal water projects, the
19 use of pesticides and the accumulation of heavy metals in Bay
20 and Delta.

21 Our organization consists of several thousand
22 anglers, both Democrats and Republicans, in seven chapters from
23 Sacramento to Fresno. We monitor the activities of state and
24 federal agencies, as well as state and federal legislation
25 affecting the Bay and the Delta, and particularly issues
26 affecting the striped bass.

27 We are actively involved in our communities, and
28 we write letters to our representatives on a regular basis.

1 During the past year, we've had a great deal of
2 difficulty in dealing with some of the federal agencies with
3 respect to some of the conservation programs that we support.
4 One of the only striped bass conservation programs now in place
5 is the Net Pen Rearing Project. This project involves the
6 rescued small striped bass from the streams at the pumping
7 projects, transporting those fish to floating pens in the Bay.

8 The project has a very high success rate because
9 the fish are reared in their natural environment. When the fish
10 are about a year old, they are released back into the Bay.

11 During the past year, the National Marine
12 Fisheries Services refused to renew the permit for the program
13 based upon that agency's concern over the striped bass predation
14 upon the winter run salmon. After extensive negotiations
15 between the Department of Fish and Game staff and the federal
16 agency, and despite decades of research by the Department
17 showing little impacts upon the striped bass -- little impact by
18 the striped bass upon the salmon, the federal agency still
19 refused to issue the necessary permit. This was despite the
20 efforts of very talented people in the Department, including Al
21 Petrovich and Don Stevens.

22 At that time, Jacqueline Schafer became directly
23 involved and negotiated a reasonable compromise, we believe,
24 with the federal agency, which now allows the project to move
25 forward. The permit has not as yet been issued, but we expect
26 that the process will move forward and the permit will be
27 issued.

28 Ms. Schafer also went to bat for California's

1 sport fishermen when the federal agency recently issued rather
2 unreasonable new salmon regulations.

3 In our dealings with the Department of Fish and
4 Game during the past year, it is our impression that Jacqueline
5 Schafer is able to grasp difficult issues such as those
6 confronting the striped bass. She has established important and
7 sensible goals for the Department, and she has now proposed a
8 budget that will enable the Department to operate more
9 effectively and efficiently.

10 I had the pleasure to meet Jacqueline a number of
11 months ago at a meeting of the Striped Bass Public Advisory
12 Committee -- I'm sorry, the Striped Bass Stamp Public Advisory
13 Committee. She at that time shared with us her vision and
14 goals for Department, and she expressed her commitment to the
15 striped bass issues, and she has followed through on that
16 commitment.

17 Her staff has demonstrated a commitment to her
18 and also has demonstrated, I think, renewed enthusiasm as well.
19 With Director Schafer's leadership, we are hopeful that the
20 Department will have in place by this time next year a new
21 Striped Bass Stamp Program.

22 Several years ago when a stamp program was last
23 in place, nearly a half million anglers purchased striped bass
24 stamps which represents a tremendous generation of revenue for
25 the Department. These stamp revenues benefit not only the
26 striped bass conservation efforts, but also directly benefit
27 many other species.

28 As an example, the Striped Bass Stamp Committee

1 has authorized the use of stamp funds for the purchase of
2 sophisticated equipment for Fish and Game wardens, including
3 night vision scopes and digital cameras. This equipment enables
4 the Fish and Game wardens to perform their work and to more
5 effectively arrest and prosecute poachers.

6 It's my understanding that Ms. Schafer is backing
7 projects which are not endorsed by Governor Wilson and has
8 opposed a recent pollution bill that many conservation groups
9 felt was too lenient. I think Ms. Schafer should be credited
10 for her independence.

11 In summary, Director Schafer has demonstrated
12 leadership, management ability, and commitment in the past year.
13 She has the support of our organization and other conservation
14 organizations such as ours.

15 I can tell you that the California Striped Bass
16 Association has had its differences with past directors of the
17 Department, but we welcome the direction the Department has
18 taken during the last year under Ms. Schafer's leadership, and
19 we certainly look forward to working with her in the near
20 future.

21 SENATOR LEWIS: Thank you. One quick question.

22 In view of the recent flooding and high water
23 flows going through the Delta, all things being equal, what
24 effect will that have in the long term on the population of the
25 striped bass?

26 MR. WILHELMY: Senator, water is the key issue
27 for the striped bass. Unfortunately, it's a much more
28 complicated issue than that.

1 Last year we had a good deal of rainfall, a lot
2 of flows. What appears to have happened last year is that the
3 high flow rates washed the small striped bass out of the Delta
4 and into the Bay, where they were not able to survive. So, it's
5 a very complicated question. Water is the key factor in
6 certainly protecting the bass from the pumping efforts.

7 SENATOR LEWIS: Too much is not good thing?

8 MR. WILHELMY: It's maybe just a matter of
9 timing.

10 SENATOR LEWIS: Thank you.

11 MR. PENGILLY: Sir, could I sum up just one
12 short thing.

13 SENATOR LEWIS: We need you to come up to the
14 microphone, please.

15 Are you in favor of confirmation?

16 MR. PENGILLY: Yes.

17 I'm also with the Striped Bass Association. My
18 name is Lew Pengilly.

19 One of the problems we have with the striped bass
20 now in your question regarding the water flows, is we do not
21 have enough adults for spawning to bring the striped bass back.
22 That's why the Net Pen Program and the hatchery programs are so
23 well needed.

24 Thank you.

25 SENATOR LEWIS: Thank you.

26 Anyone else in favor of confirmation?

27 MR. GAINES: My name is Bill Gaines. I'm the
28 Director of Government Affairs for the California Waterfowl

1 Association.

2 With a membership of over 12,000, the mission of
3 the California Waterfowl Association is to preserve and enhance
4 California's waterfowl, wetlands, and sporting heritage. Our
5 ability to successfully achieve this goal is highly dependent
6 upon our ability to work cooperatively with state and federal
7 agencies, most notably the Department of Fish and Game.

8 When Jackie Schafer was appointed to the position
9 of Director of the Department of Fish and Game almost one year
10 ago, she was largely unknown to the waterfowl community. We
11 received her appointment with a lot of skepticism, but we were
12 willing to give her a chance to try.

13 Over the course of the last ten months she has
14 clearly removed any skepticism that we have had within the
15 waterfowl community, and clearly any that the California
16 Waterfowl Association has. We have found her to be very
17 sensitive to the serious problems that face California's
18 waterfowl resource and willing would work closely with us to
19 address them.

20 I've got a couple of examples I'd like to
21 provide. Last year, in the '96-97 budget, although we did
22 fairly well in regards to waterfowl related programs, we did
23 have a need, a serious need, after the release of the Governor's
24 budget to address some of the O&M needs of some of the wildlife
25 areas. The Upper Butte Sink Wildlife area is one of them in
26 particular.

27 Ms. Schafer worked very closely with us to
28 provide the necessary funding, and I'm pleased to say that we

1 were successful in that effort, and that was one of our primary
2 waterfowl areas. It's not a very big one, but it's a darn
3 important one up in the Sacramento Valley.

4 Another example, and speaking of federal funding,
5 as many of you probably know, the 1996 Farm Bill was signed into
6 law by President Clinton last April. Following the signing of
7 that Farm Bill, the actual details, the guidelines, rules and
8 regulations, if you will, for a lot of the conservation programs
9 within that bill still needed to be carved out.

10 In many cases when you have legislation that's
11 written as a national level, it doesn't necessarily address real
12 needs that we have here in California. And from a waterfowl
13 perspective, I can assure you that our needs are completely
14 different than almost every other state in the country.

15 Because of the large changes in the natural
16 hydrology of our state, we have very few naturally occurring
17 wetlands. Most of our wetlands remaining in the state, which
18 is only about five percent, have to be artificially irrigate and
19 intensely managed to create marsh vegetation. Obviously, that
20 comes at a tremendous expense, and obviously that's different
21 than a lot of the programs that we have nationally.

22 We need programs that fit California's unique
23 environment. Wetlands across the rest of the country primarily
24 get wet naturally, just like they did historically here in
25 California.

26 The Conservation Reserve Program is one of the
27 primary programs within the conservation title of the Farm
28 Bill. Ms. Schafer and the Department of Fish and Game worked

1 closely with California Waterfowl Association to provide the
2 comments to the United States Department of Agriculture to where
3 we could get that program, the rules and regulations for that
4 program, written in a fashion that fit here in California. And
5 as a program that's been around roughly ten years, funded at
6 almost \$2 billion a year, it's painful for me to say that we
7 only have about 100,000 acres enrolled here in California.

8 That will change when the implementation of the
9 1996 Farm Bill hits the ground following the final rules and
10 regulations, which we expect to see shortly, and the Department
11 of Fish and Game can take a lot of the credit for that. We
12 appreciate it.

13 We are strongly in support of Ms. Schafer's
14 confirmation as Director.

15 SENATOR LEWIS: Thank you very much, and would
16 you give my personal regards to Shirley Siefert, please?

17 MR. GAINES: You bet I will.

18 SENATOR LEWIS: Let's hear now from the
19 opposition.

20 MR. PALMER: Mr. Chairman, Members of the
21 Committee, I'm Mark Palmer. I'm Director of Wildlife Alive.
22 This is a project of Earth Island Institute in San Francisco,
23 here in opposition to Director Schafer.

24 Now, in fairness to Director Schafer, our major
25 concerns, which I outlined in my letter to the Committee and
26 which I won't go into great detail here, I won't take up your
27 time for that, is with the policies that have been imposed upon
28 the California Department of Fish and Game by the administration

1 of Governor Pete Wilson. Policies that, in my opinion, are
2 disastrous, are derogatory towards our wildlife heritage, and
3 which unfortunately Director Schafer, either willingly or
4 unwillingly, is going to have to implement.

5 Again, I won't go into great detail about them.
6 You have them in my letter with the California Endangered
7 Species Act and with other aspects.

8 I have also a copy of a letter that I sent to the
9 Department of Fish and Game regarding management of mountain
10 lions, urging them to take a number of steps with mountain
11 lions, and I'm still waiting for a response to that one, as well
12 as some newspaper articles about the problems at the Department
13 of Fish and Game. And I'd like to add these to the record. And
14 you have my letter as well.

15 We do have those concerns. And again, I can
16 count votes as well as anyone, so I hope in your consideration
17 of the vote, as well as your further considerations down the
18 line of the Department Fish and Game's budget, some of the
19 issues coming before you in the Legislature, that you'll keep in
20 mind these concerns and we can work them out.

21 Thanks very much for your consideration.

22 SENATOR LEWIS: Thank you.

23 Senator Brulte for a question.

24 SENATOR BRULTE: I'd like to ask a couple
25 questions.

26 Let me see if I have this correct. You're not
27 opposed to Ms. Schafer, you just don't think highly of the
28 Governor?

1 MR. PALMER: It's a combination of both. I think
2 Ms. Schafer is going implement those positions. That's
3 correct.

4 SENATOR BRULTE: Does your organization get
5 involved in political campaigns and make endorsements?

6 MR. PALMER: No, actually. Earth Island
7 Institute does not make endorsements.

8 SENATOR BRULTE: Do your members get involved and
9 make endorsements?

10 MR. PALMER: I'm sure some of them do, but it's
11 not a political organization in that sense.

12 SENATOR BRULTE: Would you venture a guess that
13 most of your members supported the Governor in the last election
14 or supported his --

15 MR. PALMER: My guess is, those members, it's a
16 national -- actually international -- organization, so my guess
17 is those members in California, the majority, probably opposed
18 him in the election.

19 SENATOR BRULTE: Okay, thank you.

20 MR. PALMER: Thank you.

21 SENATOR LEWIS: Anyone else wishing to testify in
22 opposition.

23 Anyone wanting to express just concern? Thank
24 you.

25 MS. HANDLEY: I'm Virginia Handley with the Fund
26 for Animals.

27 I'm sorry that we do not come with a position.
28 We have tried to get together with Jackie Schafer a few times,

1 and I think we're going to manage to do that sometime soon to
2 ask her some of the specific questions of concerns that we
3 have.

4 I'm concerned when a Chairman of our Natural
5 Resources and Wildlife Committee has concerns. I would like for
6 him to be in support as well as the other environmental groups.
7 That would make us feel a whole lot more confident.

8 I do attend most all the Fish and Game Commission
9 meetings at every opportunity. I've always found Jackie Schafer
10 always to be very competent and a very good administrator.

11 I'm also happy to see support of wardens. I
12 think that's very important when the people on the front line
13 are in support.

14 I would like see more environmental support. She
15 has been quoted as saying she wants to emphasize the, quote,
16 "contribution of the sporting public." Of course, we feel we
17 represent that part of the public, which is about 97 percent,
18 that do not hunt. And we like to see their interests
19 represented by the Department and by the Director.

20 We do have existing law that when they do their
21 regulations for the hunting and trapping, that they are to
22 consider the welfare of individual animals. And we don't very
23 often see that reflected in the regulations, and we hope that
24 Ms. Schafer would put some emphasis on that. We're concerned of
25 animals being clubbed to death in traps, and suffocated or
26 choked to death, unnecessary suffering of animals, and ways like
27 that, and with a lot of the archery and the hunting with the
28 dogs.

1 We also want to encourage Ms. Schafer to keep the
2 Fish and Game Department to support the fact that they have
3 jurisdiction over issues such as deer farms and other wildlife
4 that are in captivity. We feel Fish and Game has a lot more
5 expertise on these animals than, say, the Department of
6 Agriculture.

7 There's a move to try and weaken regulations
8 covering captive wildlife, and we want to see them strong, and
9 we would love to see them stronger. Issues such as elephants in
10 captivity that are now allowed to be on chains for 19 hours a
11 day. That's something that we'd like to see corrected. That's
12 up to the Department of Fish and Game to support that and for
13 the Commission to confirm that.

14 Thank you.

15 SENATOR LEWIS: Does your organization equally
16 oppose sport fishing as well as sport hunting?

17 MS. HANDLEY: We really don't get involved in the
18 fishing at all. To spend one meeting of the Fish and Game
19 Commission, you see how overwhelming an issue that would be for
20 us to take on. I certainly would not have the expertise on
21 that.

22 Of course, we prefer, you know, nonpainful means
23 of killing any animal, and that's just about impossible when you
24 get into fishing. We have certainly interests in other animals
25 that are killed or hurt in the process of fishing, particularly
26 commercial fishing. So, a lot of times we support the sport
27 fishermen because they are more habitat oriented.

28 SENATOR LEWIS: All right, thank you.

1 Anyone else wishing to express concerns at this
2 time? Apparently not.

3 Ms. Schafer, it's the desire of the Committee to
4 try to expedite your vote. We're going to try to have a hearing
5 set for the 29th. Would you be able to respond to Senator
6 Hayden's letter to the Committee?

7 MS. SCHAFFER: Yes, I'll be happy to respond
8 before that time with ample time for the Committee to review the
9 responses.

10 SENATOR LEWIS: That'll be fine. In that case,
11 our next hearing we will be handling your confirmation. The
12 vote will be to the 29th.

13 Thank you very much.

14 MS. SCHAFFER: Thank you very much, Mr. Chairman.

15 SENATOR LEWIS: At this point in time, we'd like
16 to proceed and ask Mr. Steve Baker to come forward.

17 Welcome, Mr. Baker.

18 MR. BAKER: Thank you very much.

19 SENATOR LEWIS: Do you have an opening statement
20 that you'd like to proceed with?

21 MR. BAKER: Senator, I don't think so. I think
22 in the interest of time, I have appeared before the Committee
23 before.

24 SENATOR LEWIS: Yes, you have.

25 MR. BAKER: And you do have my resume. I'd just
26 as soon open myself up to questions.

27 SENATOR LEWIS: All right.

28 Does any Member of the Committee have any

1 questions for Mr. Baker at this time? We've heard Mr. Baker
2 before. Let's go ahead.

3 Apparently, there aren't any questions at this
4 point in time, so let's open it up and see if there's anyone in
5 the audience that would like to provide any testimony. Anybody
6 here today that would like to testify in behalf of Mr. Baker's
7 confirmation?

8 SENATOR HUGHES: I want to ask the same question
9 that I asked Carol Bentley about revocations of paroles, the
10 percentages have gone up from 60.1 percent to 68.4 percent, and
11 why is this so? And what are you doing to turn this trend
12 around?

13 MR. BAKER: Senator, I'm not sure I want to turn
14 the trend around.

15 As far as revocations go, we are -- I think the
16 policy is that we're very tough with revocations. If you let
17 somebody out on parole, you're telling him you're giving him a
18 chance. And if he violates that trust that you put in him on
19 more than one occasion, then I really don't have any sympathy
20 for him. As far as I'm concerned he should be revoked.

21 SENATOR HUGHES: So, your get-tough policy is
22 good for the community, is what you're saying?

23 MR. BAKER: I think that the crime statistics
24 would bear that out, that crime is down all over the state. One
25 of the reasons it's down is because of the get tough policies.

26 SENATOR HUGHES: I have no more questions.

27 SENATOR LEWIS: Is there anyone in the audience
28 that would like to testify in opposition to this confirmation?

1 Anyone wanting to express concerns?

2 Mr. Baker, you're in for an easy day, I think.
3 Is there anyone that would like to make a motion at this
4 time.

5 SENATOR BRULTE: Move it.

6 SENATOR LEWIS: Senator Brulte moves
7 confirmation. Secretary please call the roll.

8 SECRETARY WEBB: Senator Ayala.

9 SENATOR AYALA: Aye.

10 SECRETARY WEBB: Ayala Aye. Senator Brulte.

11 SENATOR BRULTE: Aye.

12 SECRETARY WEBB: Brulte Aye. Senator Hughes.

13 SENATOR HUGHES: Aye.

14 SECRETARY WEBB: Hughes Aye. Senator Lewis.

15 SENATOR LEWIS: Aye.

16 SECRETARY WEBB: Lewis Aye. Senator Lockyer.

17 SENATOR LEWIS: The vote is four to nothing. We
18 will recommend confirmation. Congratulations to you.

19 SECRETARY WEBB: Senator Lockyer said he will be
20 added as an Aye vote.

21 SENATOR LEWIS: The vote will be five to nothing.
22 Additional congratulations to you.

23 With that, we are adjourned.

24 [Thereupon. This portion of the
25 Senate Rules Committee hearing was
26 terminated at approximately 3:25 P.M.]

27 --ooOoo--

28

CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this

27th day of January, 1997.


EVELYN J. MIZAK
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APPEARANCES

MEMBERS PRESENT

SENATOR WILLIAM LOCKYER, Chair

SENATOR JOHN LEWIS, Vice Chair

SENATOR RUBEN AYALA

SENATOR JAMES BRULTE

SENATOR TERESA HUGHES

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

JACQUELINE E. SCHAFER, Director
Department of Fish and Game

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--ooOoo--

CHAIRMAN LOCKYER: Let's start with Director Schafer as a way of getting us going. Hi.

MS. SCHAFER: Good afternoon, Mr. Chairman and Members of the Committee.

CHAIRMAN LOCKYER: Well, we were appreciative of our last visit, and scheduled today's discussion in order to have an opportunity for you to review and comment on Senator Hayden's questions. I don't seem to have those.

MS. MICHEL: It's part of your file, Senator Lockyer.

CHAIRMAN LOCKYER: Well, this is the response. It seems like you tried to be thorough.

MS. SCHAFER: I did, Mr. Chairman. Lest that be in any way off-putting, I call your attention to the first 12 pages which includes Senator Hayden's questions and my direct answers. The balance of the document are attachments, the vast majority of which are all ready in the public domain, have been provided to some committee of the Legislature or otherwise available to the public.

CHAIRMAN LOCKYER: Just to recap a few of these to make sure we get them in the record, and we'll submit the answers for part of the record, but he asked if you believe that the Department is the public trustees of California's plant, fish and wildlife. Your unequivocal answer seems to be yes.

MS. SCHAFER: Yes, sir, that is correct, it is.

CHAIRMAN LOCKYER: And if there are conflicts

1 between development and resource perspectives, what is your
2 role.

3 MS. SCHAFER: And our role, the Department of
4 Fish and Game's role, by statute, custom and practice, is to
5 represent all Californians interested in the prudent management
6 of the state's natural resources. That is, it must be
7 understood in the context of other public policy objectives,
8 some of which may appear to conflict with that role. However,
9 we've been successful in minimizing the conflicts between
10 economic development and environmental protection.

11 An example of that is the Natural Communities
12 Conservation Program, where we have managed to conserve vast
13 amounts of very fine habitat in Southern California counties,
14 thousands of acres of habitat, as a way of protecting endangered
15 and threatened species as well as all the other species
16 associated with the coastal sage scrub found in Southern
17 California.

18 CHAIRMAN LOCKYER: We did talk about this issue
19 at the previous hearing, but again, it's asked more specifically
20 about listing of Central California coho salmon as threatened.

21 Would you care to summarize your response on
22 that?

23 MS. SCHAFER: Prior to the federal listing of the
24 Central California coastal -- evolutionarily significant unit of
25 the coho salmon as threatened, the California Commission on Fish
26 and Game considered a petition to list that species south of San
27 Francisco as endangered. The Department was on record in
28 connection with that deliberation by the Fish and Game

Commission, and the Commission did, in October of 1995, find that species endangered.

The communications between -- the subsequent communications between the Department and the federal government when the federal government was considering listing the coho salmon as threatened, not only there, but in two other parts of California and Oregon, we acknowledged that although the Commission listing dealt only south of San Francisco, that the entire evolutionarily significant unit in Central California needed to be managed in such a way to protect the entire population.

Subsequently, the listing by the federal government, the decision was made in October of 1996, and the effective date of the take prohibition associated with the federal listing was December 30, 1996.

Subsequently, we've been working to try to determine what the best way to cooperatively work with the federal government, the National Marine Fisheries Service, and the California Department of Fish and Game, and other departments that can make a contribution here, how to actually develop a recovery program for the listed species. And we believe that using the NCCP program as a blueprint, as a guide, to try to go into the coastal communities in Northern and Central California, and work on a watershed by watershed basis to develop a comprehensive plan to address not only the endangered species, but others that are associated with them in those habitats.

The Governor's Watershed Initiative, which is

1 part of the 1997-98 budget request, includes significant funding
2 for the Department of Fish and Game, and for other departments
3 at Resources Agency and Cal-EPA to provide the tools that we
4 need to do this watershed planning which we believe will lead to
5 the recovery of the coho salmon.

6 CHAIRMAN LOCKYER: Now, as I understand it, then,
7 there were some federal prohibitions against sport fishing in
8 inland waters that weren't adopted by the Department?

9 MS. SCHAFER: The Section 9 take prohibition
10 supercedes all federal law. In-river take of coho salmon is
11 prohibited by virtue of federal law, as well as any other
12 activities that would result in the take of the listed species
13 as a result of the Section 9 take prohibition.

14 When that became effective, actually before that
15 became effective, the Department issued a notice to anglers and
16 others about the effective date of that prohibition. We issued
17 that notice to the public, and our wardens, who are cross
18 deputized to enforce federal natural resources law, are in the
19 field, and will instruct people, and otherwise use their
20 enforcement powers to warn and prevent the inadvertent take of
21 the coho salmon.

22 CHAIRMAN LOCKYER: I guess this may be getting to
23 the next question he had posed, whether you would recommend to
24 the Commission they not adopt emergency rules to prohibit sport
25 fishing for coho?

26 MS. SCHAFER: The adoption of emergency rules was
27 not necessary from a legal point of view to protect the coho
28 because the federal law supercedes state law in that regard.

1 The Commission also, in considering that request
2 that was made to them by the Natural Marine Fisheries Service,
3 after taking testimony from a number of parties, decided to take
4 no action at this time. In fact, some Commissioners suggested
5 that a program for recovery, conservation program, under Section
6 4(d) of the federal Endangered Species Act be pursued jointly by
7 the federal and state agencies. And that later, when the
8 Department reconsiders its sport fishing regulations for the
9 next cycle -- it's done every two years -- we would incorporate
10 the 4(d) plans into the state's sport fishing regulations at
11 that time.

12 CHAIRMAN LOCKYER: If Members have questions,
13 yes, Senator Hughes.

14 SENATOR HUGHES: A few weeks ago, the Bee had a
15 series of articles that highlighted the fact that there was a
16 lack of control on coastal resources.

17 And I note that nowhere in the Governor's budget
18 does there appear any acknowledgement of the lack of enforcement
19 capability in the Department.

20 I want to ask you, what are your plans to more
21 adequately protect our state's coastal resources?

22 MS. SCHAFFER: Actually, the Department's budget,
23 which is part of the Governor's budget, does include significant
24 increased resources for enforcement in the ocean environment.

25 SENATOR HUGHES: It does?

26 MS. SCHAFFER: Yes ma'am.

27 When I first came to the Department last
28 February, I discovered that the Department had 30 vacancies in

1 its warden ranks. It had significantly reduced its presence in
2 the marine environment because of financial difficulties that
3 led to the sale of some large patrol boats what were too
4 expensive to operate in the marine environment. Operating in
5 that environment is very expensive.

6 Also, the Department lacked sufficient funds to
7 pay over-time. When you go on marine patrol, significant time
8 away from your home base is made and must be compensated.

9 I instructed the head of the Wildlife Protection
10 Division to immediately begin to recruit for those 30 vacancies,
11 and we began to build a budget. And as you all know, that takes
12 quite a few months for the departments to put a budget together
13 and to get it through the process.

14 That budget for the Wildlife Protection Division
15 includes funding for replacement patrol vessels, two new boats
16 that are smaller and more capable and less expensive to operate
17 for this coming fiscal year, with one to follow on in the
18 following fiscal year. Additional funds to pay over-time so
19 that wardens could spend more time on patrol, and just generally
20 providing operating expenses and equipment funding for wardens
21 in an amount that is necessary no support a typical warden in
22 the field. Normally, that's about \$10,000 per warden per year.
23 We were funding our wardens at about \$6,000 per year.

24 I considered that, and the fact that so many
25 positions were unfilled, as to be somewhat akin to a hollow
26 forces situation that we found our military in some years ago.
27 I suggested to the staff that we needed to have a no hollow
28 forces policy, and to make a high priority the funding and

1 proper equipping of our field staff.

2 This is the first year of this funding. We're
3 beginning with our warden force because their requirements are
4 so well documented. But we also in the future plan to make sure
5 that our field biologists and other field activities are also
6 properly equipped to do their job.

7 The fact that we are having these 30 new
8 positions available and funded starting next fiscal year will
9 increase our presence in the marine environment significantly.
10 About 70 percent of the total hours that these wardens, the new
11 wardens that we're hiring, spend will be in the marine
12 environment off the coast of California.

13 SENATOR HUGHES: So, in other words, you're
14 telling me I shouldn't believe what I read in the Bee?

15 MS. SCHAFFER: No.

16 SENATOR HUGHES: They're not telling the truth?

17 MS. SCHAFFER: Oh, no, no, no, no. The Bee's
18 story --

19 SENATOR HUGHES: Has their article motivated your
20 action?

21 MS. SCHAFFER: No, I think what our budget request
22 and the Bee's story have in common is that both recognized the
23 situation as it existed over the past several years.

24 Our funding condition was very poor. Our sources
25 of funds were down as a result of a number of economic and other
26 problems in California. And we are not funded very much by the
27 General Fund, and so we depend on the hunting and fishing
28 licenses and stamps that anglers and hunters buy in order to

1 fund most of our base programs.

2 Now that our fund condition has improved, we've
3 turned the corner on that, it's my highest priority to make sure
4 that our people are properly equipped to do their job.

5 I think the Bee did an excellent job documenting
6 some of the problems out in the marine environment, and I think
7 what they identified and what I identified, and then tried to
8 correct in our budget, reflect the same reality.

9 SENATOR HUGHES: So, you would then conclude that
10 the Bee supported your actions that you have taken in this
11 regard?

12 MS. SCHAFER: I think the Bee has acknowledged
13 that our budget request for next year is a step in the right
14 direction, and that's what I think it is, too. It's one step in
15 a series that we must take to restore the resources in the
16 marine environment.

17 It's not a wholly negative situation, I would
18 like to point out. Sardines are coming back into California's
19 marine environment after many, many decades of absence. Our
20 herring fishery is in very good shape. The biomass estimates
21 have proved to be very accurate, and the catch is as a result of
22 that.

23 We do have other problems that we are addressing
24 through innovative programs, such as a program to restore sea
25 bass in Southern California, the Ocean Resources Enhancement
26 Program that we conduct in conjunction with the Sport Fishing
27 Association of Southern California.

28 So, there's a lot going on out there. There are

1 many reasons to be hopeful, but we have to keep working at it.

2 SENATOR HUGHES: Thank you.

3 CHAIRMAN LOCKYER: I'm also reading your
4 responses to the San Francisco Chronicle's editorial to at least
5 mention that that paper expressed views about this matter
6 today. I think we've distributed the comments.

7 You point out four or five segments that you
8 think are inaccurate.

9 I hadn't quite finished reading this, so I wanted
10 to make sure to ask questions about it if anything was not
11 self-explanatory.

12 With respect to the Department's cooperation with
13 the federal government and its programs, one comment I've heard,
14 I think at the time of El Nino, there were federal monies
15 available but not applied for to help with the impacts on
16 fishermen.

17 Does that sounds familiar in any way?

18 MS. SCHAFFER: Yes, I addressed that in my
19 responses to Senator Hayden's questions, and also I can review
20 that information with the Committee at this time.

21 In 1994, the federal government closed the ocean
22 salmon fishery in Northern California, Oregon, and Washington.
23 The severe reduction in the abundance of the fish that are
24 harvested there was a result of the combination of forces, some
25 of which were natural. El Nino and the drought here in
26 California were particularly cited and contributing to that
27 closure.

28 As a result of the closure, the Governor of

1 California in May of 1994, declared a State of Emergency and
2 wrote to the President requesting federal disaster assistance
3 under a federal program. And California received, along with
4 Washington and Oregon, funds -- I'm sorry, not the State of
5 California -- Californians in the four north coastal counties
6 that were eligible for the assistance under the disaster
7 declaration were able to apply for a total of \$12 million in
8 federal funds for the three states.

9 California received an allotment from the
10 Department of Commerce in the amount of \$2.7 million for the job
11 retraining, unemployment relief.

12 And in the State of Washington in particular, a
13 vessel buy-back program to actually reduce the number of people
14 fishing in the ocean. California and Californians were not
15 interested in participating in such a program, but the fact is
16 that the largest share of the funding from the federal
17 government went to the buy-back program. Californians did not
18 want to give up their opportunity to fish, but some number of
19 people from Washington did.

20 The kinds of programs we pursued in California
21 included habitat conservation and at-sea sampling, and the
22 Department sought a significant share of funding for those kinds
23 of activities. We thought that a fair share would be about an
24 even split, one-third to each state. Ultimately, we received
25 somewhat less than that.

26 However, the programs were quite successful, and
27 there was an opportunity for follow-on money. When I was made
28 aware of the opportunity by the fishing industry and by the

1 Resources Agency, I was able to ascertain that the Governor's
2 Emergency Declaration was still in effect, and that our grantees
3 were still eligible for receiving any follow-on money.

4 My understanding is that approximately \$3
5 million -- my recollection is that approximately \$3 million was
6 available to the Northwest Assistance Program. California
7 received about 700,000 of that, which is about the same
8 percentage as they received the previous year.

9 The program is one, and particularly the habitat
10 restoration activities, is the kind of thing that the Governor's
11 Watershed Initiative is trying to continue. And our budget
12 request contains \$650,000 for precisely those kinds of
13 activities, watershed restoration in the coastal communities.

14 CHAIRMAN LOCKYER: There's discussion of fee
15 income in various parts of the commentary. One has to do with
16 the developer fees that are available to levy if there's some
17 impacts that they need to mitigate by that payment.

18 It's my understanding that nearly two-thirds of
19 all the projects have been waived as having no such impact.
20 That obviously has some impact on the fee stream, but separate
21 from that, does that seem like a correct assessment of whether
22 there are impacts with the various developments?

23 MS. SCHAFER: Under the law for collecting these
24 development fees, there is a provision for waiving diminimus
25 actions.

26 The fees are collected by the lead agencies which
27 primarily are the counties. I don't know whether the number
28 two-thirds is the correct one; I don't have that information

1 handy right now. But it is quite conceivable that many, many
2 activities really have a diminimus impact, and therefore it
3 would be appropriate to waive the fee.

4 On the other hand, there are lots of projects
5 that require significant time and effort by the Department's
6 staff to review, and we do work with developers to mitigate
7 impacts ahead of time so that a negative declaration is possible
8 because there is know adverse impact on the environment. In
9 that case a fee would be appropriate, and the fees are to be
10 collected by the county.

11 I don't think -- if you'd like, I can review the
12 legal situation with regard to that because that has now been
13 challenged.

14 CHAIRMAN LOCKYER: Yes, I understand the legal
15 argument and the court rulings as to whether it's a tax or a
16 fee.

17 MS. SCHAFER: My basic approach to this is that
18 although we may be able to develop a substitute fee, that our
19 experience was that even at the height of the collections of
20 this program, the total dollars generated were not adequate to
21 support the kinds of activities that Department intended and
22 Legislature intended that the Department fund with that fee
23 program.

24 As a consequence, I believe we need to pursue
25 every possible opportunity to pay for our environmental quality
26 review and our endangered species and related protection
27 programs through a possible combination of alternative sources
28 to that fee. It has not produced the revenues that were

1 expected and does not match our costs.

2 CHAIRMAN LOCKYER: Are there other questions?
3 Senator Ayala.

4 SENATOR AYALA: I just have one question.

5 Have you ever approved a project without proper
6 mitigation taking place as it pertains to species and
7 environment and so forth?

8 MS. SCHAFER: I am not aware of any case where
9 that --

10 SENATOR AYALA: You have never approved a project
11 where mitigation didn't take place?

12 MS. SCHAFER: I am not aware that we have ever
13 approved a project where proper mitigation did not take place
14 where such mitigation was required. I'm not personally
15 acquainted with that.

16 As I testified earlier and also today, we have
17 some aggressive programs in place, especially in Southern
18 California, to preserve entire natural communities so that the
19 growth that does take place where there is not the high value
20 habitat will be able to proceed with a degree of certainty and
21 with more effective protection of the environment, and the
22 habitat, and the species that live there.

23 But it is our responsibility as a public trustee
24 for California's natural resources to see to it that the
25 environmental impacts of any developments are minimized, and
26 that the mitigation is proper for protecting the relevant
27 species or habitat in question.

28 CHAIRMAN LOCKYER: There seems to be still some

1 continuing philosophical disagreement between the listing
2 approach and the habitat conservation theory about managing
3 resources and protecting habitat and species.

4 What do you find is the persuasive evidence that
5 the habitat conservation approach works?

6 MS. SCHAFFER: The sheer volume of habitat that we
7 expect to be able to protect under this conservation program,
8 and the fact that they are connected, they are contiguous, and
9 provide an opportunity for the whole community of species that
10 relate to each other to continue on a long-term basis without
11 disturbance is the primary reason why the approach that we favor
12 is going to be more effective than what we had previously been
13 doing, which was basically to try to go species by species and
14 set aside some postage stamp, as they are sometimes called, of
15 property that would be habitat for that individual species.

16 They are not connected. You are not necessarily
17 able to protect what happens around those reserves. Those can
18 change. Those conditions can change in the long-term viability
19 as habitat for threatened or endangered species is called into
20 question.

21 The idea of a landscape approach is one that has
22 been talked about by professionals and biologists and scientists
23 for many, many years. Here in California, we really are the
24 pioneer for actually putting it in place as a matter of a state
25 government program.

26 We have the full cooperation of the U.S.
27 Department of Interior and the Fish and Wildlife Service in
28 pursuing that program in Southern California. We've conserved

1 enormous quantities of real estate that has excellent habitat on
2 it as a result, and we'd like to see that continued in other
3 counties in Southern California and elsewhere as we gain
4 experience with this program.

5 CHAIRMAN LOCKYER: So, because we are pioneers,
6 there's a theory about its efficacy, but no specific studies
7 that would bear out its workability?

8 MS. SCHAFER: We have, through agreements that
9 have already been executed, conserved -- that is, they will not
10 be developed -- some vast quantities of land in Southern
11 California that provide excellent habitat for threatened and
12 endangered species, and all the other associated terrestrial
13 species in that community.

14 So, it already -- you know, the habitat is now
15 being protected. Obviously, we have a long way to go in terms
16 of implementing some of the plans that have recently been agreed
17 to, but there's every expectation that this approach is one that
18 protects a large quantity of habitat and provides the resources,
19 the funding, over the long-term as well to maintain those
20 properties properly as habitat so that they will sustain those
21 populations for decades in the future.

22 CHAIRMAN LOCKYER: Finally, I read your answer,
23 but it's probably appropriate to get in the record, we've asked
24 it in a number of different ways, but I guess I'm insisting that
25 you explain the extent to which you're committed to using your
26 budget and resources to protect our plant, fish and wildlife
27 resources?

28 MS. SCHAFER: Our budget request for the coming

1 fiscal year is significantly larger than our current budget. We
2 are moving from about \$165 million operating budget to about
3 \$190 million. We will be able to increase staffing, both
4 permanent and temporary, to carry that out. Some of that money
5 comes from the Prop. 204 bond issue that was passed, and it will
6 allow us to restore habitat in the Central Valley in California,
7 both Sacramento and San Joaquin.

8 There are six major initiatives in my budget.
9 They are a balance of efforts to both conserve and improve
10 habitat for salmonids, coastal and Sacramento and San Joaquin
11 Valley salmon species and the related species that live there,
12 and a program to be proper stewards of the lands that we own.
13 We have 99 ecological reserves, and 98 wildlife areas around the
14 state. Significantly new resources are being provided to
15 maintain those properties in a proper way as well.

16 Likewise, much of our funding comes from hunting
17 and fishing revenues. And we have a striped bass recovery
18 program, as well as an upland game bird heritage program, which
19 are going to be enhanced by my budget.

20 And finally, as I discussed with Senator Hughes,
21 we would like to make sure that our people at the Department of
22 Fish and Game are properly equipped to do the job that the
23 statutes and Legislature expects of them; that is, our habitat
24 conservation responsibility, and our responsibility to our
25 license buyers for recreational opportunity.

26 That's the point of increasing funding for
27 wardens and for field biologists, as well as people at
28 Headquarters trying to bring us into the 21st Century with

1 respect to computer equipment and advanced technology.

2 All of those working together will, I believe, as
3 well as our base program, enable us to protect the fish and
4 wildlife resources of the State of California. And I certainly
5 pledge myself to lead this agency to do that if I am
6 confirmed.

7 CHAIRMAN LOCKYER: You would call that a solid
8 commitment?

9 MS. SCHAFER: Yes, sir, I think so.

10 CHAIRMAN LOCKYER: It's sort of an awkward thing
11 to ask, but I feel somewhat compelled to, and I only do it not
12 knowing any of the job duties or recommendations that you would
13 receive from staff so on, but since we have this tension between
14 resource protection and development that often causes contention
15 within your department, it seems appropriate to ask whether
16 having a chief deputy that came out of the lobbying force of the
17 Building Industry Association is a good idea?

18 MS. SCHAFER: I have several deputies. Most of
19 them are career people who have spent a lifetime with the
20 Department of Fish and Game and bring to that Department, bring
21 to my office, the kind of experience and guidance and
22 information that I need to make the proper decisions.

23 There are appointees by -- the Governor's
24 appointees, exempt positions, who work on external affairs with
25 our constituents as well as the Legislature, and a General
26 Counsel who is also an exempt appointee.

27 CHAIRMAN LOCKYER: Those are appointed by the
28 Governor?

1 MS. SCHAFFER: Yes, they are. They are part of my
2 staff, and they are at the rank of deputy. But all the other
3 deputies at the Department right now are career people who have
4 collectively decades of experience in Fish and Game.

5 CHAIRMAN LOCKYER: It seems like a question more
6 appropriately put to the Governor, since he makes that
7 decision.

8 Any other questions?

9 SENATOR AYALA: I have one more question.

10 If a species is under the federal Endangered
11 Species Act but not under the state, would you actually get
12 involved with that? If it was under the federal act but not
13 under the state Endangered Species Act?

14 MS. SCHAFFER: Yes, we would.

15 As I explained in connection with the coho
16 listing, our wardens are cross deputized to enforce federal
17 natural resources laws, and we would certainly want to be sure
18 that our people were not inadvertently or otherwise violating
19 federal laws.

20 SENATOR AYALA: Why would you want to get
21 involved? It's not under your jurisdiction.

22 MS. SCHAFFER: We certainly want to cooperate with
23 the federal agencies in protecting species. There are different
24 tools to do that, but I think that generally our goals are
25 mutual; that is, we are trying to protect sufficient habitat for
26 species and --

27 SENATOR AYALA: Are you familiar when the problem
28 we're experiencing in the City of Colton with a fly?

1 MS. SCHAFFER: Yes, sir. I have heard about that,
2 the gully sands flower loving fly is a federally listed species
3 that apparently is having some effect in the City of Colton on a
4 project. That is not a --

5 SENATOR AYALA: The fly at the moment is six
6 inches below the ground, but when it gets warm, it's going to
7 start raising hell with the people around there.

8 Why should we protect something like that?

9 MS. SCHAFFER: Let me just point out that it is
10 federally listed, not state listed, because under the state
11 environmental -- Endangered Species Act, we don't list
12 insects.

13 However, we are not involved with that particular
14 case. If there were a way that a local developer was seeking
15 expert opinion on how to mitigate impacts on that species or on
16 its habitat, we would certainly work with those local people to
17 find a way to minimize those effects.

18 SENATOR AYALA: In this particular case, I
19 understand the Australian government, or someone in Australia,
20 wants to build a large plant there in that isolated area that
21 would create a lot of jobs or hundreds of jobs. The
22 environmentalists are fighting it because of some stupid fly
23 that's down there, and it's going to come out later on with the
24 population.

25 I really don't understand that application of
26 protection of endangered species.

27 MS. SCHAFFER: That is an illustration of the
28 point that the Chairman was making before about the potential

1 conflict between economic development projects and the need to
2 protect habitat.

3 As I said, we are not involved in that particular
4 case, but to the extent that a community would like the
5 assistance of the Department of Fish and Game in determining
6 whether mitigation is possible, what the proper biological
7 approach to the species would be, we would be happy to help to
8 the extent that we have personnel with that kind of
9 expertise.

10 SENATOR AYALA: Thank you.

11 CHAIRMAN LOCKYER: Thank you.

12 Is there anyone present who would wish to comment
13 that perhaps was not or didn't have the opportunity last time.

14 Pleasure of the Committee?

15 SENATOR BRULTE: Move.

16 CHAIRMAN LOCKYER: We have a motion to recommend
17 confirmation to the full Senate.

18 Call the roll, please.

19 SECRETARY WEBB: Senator Ayala.

20 SENATOR AYALA: Aye.

21 SECRETARY WEBB: Ayala Aye. Senator Brulte.

22 SENATOR BRULTE: Aye.

23 SECRETARY WEBB: Brulte Aye. Senator Hughes.

24 SENATOR HUGHES: Aye.

25 SECRETARY WEBB: Hughes Aye. Senator Lewis.

26 SENATOR LEWIS: Aye.

27 SECRETARY WEBB: Lewis Aye. Senator Lockyer.

28 CHAIRMAN LOCKYER: Aye.

1 SECRETARY WEBB: Lockyer Aye. Five to zero.

2 CHAIRMAN LOCKYER: Good luck.

3 MS. SCHAFER: Thank you very much, Mr. Chairman,
4 Members of the Committee.

5 And if you would indulge me, I'd like to say
6 thanks to John Grant.

7 [Thereupon. This portion of the
8 Senate Rules Committee hearing was
9 terminated at approximately 2:32 P.M.]

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I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this
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EVELYN J. MIZAK
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APPEARANCES

MEMBERS PRESENT

SENATOR WILLIAM LOCKYER, Chair

SENATOR JOHN LEWIS, Vice Chair

SENATOR RUBEN AYALA

SENATOR TERESA HUGHES

MEMBERS ABSENT

SENATOR JAMES BRULTE

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

CRAIG L. BROWN
Director of Finance

EDWARD B. SYLVESTER, Member
California Transportation Commission

SENATOR TIM LESLIE

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P-R-O-C-E-E-D-I-N-G-S

--oo0oo--

CHAIRMAN LOCKYER: Mr. Brown, looking at your resume here, it looks like you're having trouble holding a job.

MR. BROWN: Recently.

CHAIRMAN LOCKYER: You've moved around, a lot. What's that all about?

No, go ahead. Do you want to start with whatever comments you would wish to make?

MR. BROWN: As you know, I've been around this business a few years. I was a budget officer in the Air Force. I worked for the Analyst for eight years, and I've been doing budgets more or less the rest of my career with the state.

I'll be happy to answer your questions.

CHAIRMAN LOCKYER: Do you have any tentative estimates on the flood costs to the state?

MR. BROWN: I believe we testified the other day that we thought that the tentative were 120 -- about 120 million general fund potential impact, which would be spread over a few years.

CHAIRMAN LOCKYER: I'm sorry, what was your answer?

MR. BROWN: As of last count, it was 120 million general fund. The emergency part would be right away. The restoration part would be spread over a fiscal year or two or three.

CHAIRMAN LOCKYER: And the 120 is both?

MR. BROWN: Is general fund, correct.

CHAIRMAN LOCKYER: What's the proportion?

MR. BROWN: I can't -- don't recall exactly, but I think it's 40 or 50 of emergency response.

1 CHAIRMAN LOCKYER: And would this include, if we were to
2 adopt the traditional tax relief, or picking up the local agency
3 share --

4 MR. BROWN: I don't believe that includes that. That
5 would be on top of it. It would probably affect the budget year
6 not the current year.

7 CHAIRMAN LOCKYER: What's the hardest part of your job?

8 MR. BROWN: That's a tough question. I guess getting the
9 pleasure of saying no to almost every Wilson appointee that
10 thinks they have a direction to charge off and spend money.

11 CHAIRMAN LOCKYER: What was different than you expected?

12 MR. BROWN: Much more cyclical than I thought. And when
13 it's intensive, it's really, really intense around here.

14 And the other thing, I think, was actually producing the
15 budget itself. The physical production of getting that darn, fat
16 book out was much, much more challenging than I thought it would
17 be.

18 CHAIRMAN LOCKYER: Speaking of this year's budget, you may
19 have had an opportunity to talk about this in the Budget
20 Committee, but we do rely on a significant amount of new federal
21 money to make the numbers work.

22 How optimistic are you about those working out?

23 MR. BROWN: Well, we're requiring -- relying on about 600
24 -- a little over 600 million. Immigrant health care is about 200
25 million of that. The President had it in his budget in past
26 years. There was never authorizing legislation. Congress, last
27 year they passed authorizing legislation. Hopefully, well, we'll
28 know more tomorrow when he presents his budget.

1 Approximately 270 million for SSI/SSP, MOE relief to allow
2 us to implement those grant cuts that have already been approved
3 by the Legislature is probably more problematic, but we probably
4 have one window of opportunity in that it's welfare reform.
5 Federal welfare -- the Federal Congress, because I know welfare
6 reform, we'll get another shot at that.

7 Reciprocal tax relief is worth approximately 85 million,
8 and frankly, that makes such good government sense, I don't
9 understand why Congress hasn't passed it already.

10 The last item that the analyst raises, they have a
11 slightly different number on felon money. And I think that's
12 really a question, does Congress appropriate the 650 they
13 authorized, or the 500 they appropriated last year? Again, the
14 President's budget will give us some clue.

15 SENATOR LEWIS: Question.

16 CHAIRMAN LOCKYER: Yes, Senator Lewis.

17 SENATOR LEWIS: Mr. Brown, back in 1994, Senator Tom
18 Campbell carried a matter passing a law which dealt with what I
19 think is referred to as dynamic modeling.

20 MR. BROWN: That's correct.

21 SENATOR LEWIS: And Department of Finance was instructed
22 to implement that in various aspects of forecasting and analysis.

23 My understanding is that Finance has not yet completely
24 taken that into account. Why the slowdown?

25 MR. BROWN: Well, we issued the report that described
26 dynamic model in the fall. I don't remember exactly which month.

27 It will be used this year for tax bills. We will use it
28 when the bills hit fiscal committee for this year's tax bill.

1 CHAIRMAN LOCKYER: Did you use it for any of the
2 Governor's proposals?

3 MR. BROWN: We run it for the bank and corporate tax cut
4 proposal.

5 CHAIRMAN LOCKYER: And the PI?

6 MR. BROWN: We don't have a PI proposal at this point in
7 time.

8 CHAIRMAN LOCKYER: No, last year's I mean.

9 MR. BROWN: Last year, the model wasn't available.

10 What we actually -- Senator, what we actually run, we have
11 a -- in the book we published and distributed, there's actually a
12 -- that dynamic analysis assumed 100 million in tax relief for
13 various taxes. So, you can multiply more or less. If you think
14 you have a 200 million, you're going to basically double the
15 impacts in that report. If you have a 400 bank and corporate,
16 you can multiply them by 4.

17 So, the report is out. It was completed, however, after
18 the tax bills went through committee last year, so it was not
19 used last year. It is ready this year.

20 CHAIRMAN LOCKYER: As I recall the numbers from last
21 year's analysis, it was 18 percent return on bank and corp., and
22 1 percent on personal income.

23 MR. BROWN: That's correct, returned to the state as far
24 as revenues. Those were the numbers.

25 CHAIRMAN LOCKYER: The current budget proposal seems to
26 shift a little under \$600 million from AFDC to other programs.

27 Can you describe what the money came out of, and where did
28 it go?

1 MR. BROWN: Sure.

2 The money -- basically, the money was freed up by two
3 occurrences on the AFDC side: getting a block grant which was
4 based on a caseload higher than budgeted -- higher than the block
5 grants. The block grant was based on '95 caseloads. Our
6 caseloads are lower.

7 The second piece is because of federal welfare reform.

8 CHAIRMAN LOCKYER: How much is attributable to that?

9 MR. BROWN: Oh, 270-some million in the current year, and
10 about the same in the budget year.

11 CHAIRMAN LOCKYER: Almost half.

12 MR. BROWN: I think that's correct, maybe little more.

13 The rest is mostly attributable to grant cuts. The
14 Legislature approved grant cuts, and we could actually not
15 implement them until we got welfare reform.

16 You take those two sums of moneys, it's in the
17 neighborhood of 800 million over the two years, of which we
18 respend about a third of it on welfare, and took two-thirds of it
19 to other programs. Given Prop. 98, taking money off the top, in
20 effect, it's hard to say which specific program any specific
21 dollar applies to, but in general, they went to other Health and
22 Welfare programs since Health and Welfare is the biggest piece of
23 the non-98 part of the budget.

24 CHAIRMAN LOCKYER: Let me ask about your experiences with
25 the Youth Authority and Corrections generally.

26 Is it possible to see the result of your experience in the
27 budget, or are you more of a conduit for the Governor's
28 philosophy? They may be the same.

1 MR. BROWN: I think that, by and large, the budget is a
2 caseload budget and reflects the laws that you all passed and the
3 Governor signed.

4 And the Corrections budget, essentially the size of it is
5 driven by caseload. Some of the enhancements, I think, are
6 programs. You can see boot camps. I played a fairly key role in
7 getting the boot camps up and running in both Youth Authority and
8 Corrections.

9 I think there's -- Young Men as Fathers was an initiative
10 that I had while I was -- my short tenure at Youth Authority,
11 where we were going to give \$3 million to local probation to
12 teach some very high-risk young men the consequences of becoming
13 fathers in the hopes that they either, a, understand the
14 consequences, or b, think twice about the behavior.

15 CHAIRMAN LOCKYER: Anything additional you'd like us to
16 consider?

17 MR. BROWN: I think those are the -- I'd consider those
18 the highlights.

19 SENATOR HUGHES: Senator Lockyer.

20 CHAIRMAN LOCKYER: Yes.

21 SENATOR HUGHES: May I ask you a question, Mr. Brown?

22 Based on your previous experience with the Youth and Adult
23 Corrections Agency, how do you think that experience prepared you
24 best to head the agency that you're heading now?

25 MR. BROWN: I'm not sure it does, other than the fact that
26 we spent a ton of time doing budgets. I mean, I think that most
27 of us realize that the budget is what government does, so that if
28 you're in a government program, you better know a lot about the

1 budget process.

2 In addition, I think the time I spent with the Analyst's
3 Office, eight years, also.

4 SENATOR HUGHES: Do you think that builds up any biases in
5 your mind one way or the other in terms of how money should be
6 shifted from one program to another?

7 MR. BROWN: I don't think so. I think, obviously, I have
8 a better knowledge of some of those programs. We all have a
9 better knowledge in the things that we spend time with. And
10 hopefully, if anything else, I'm probably a little more critical
11 of some of those proposals because I know a lot about them.

12 SENATOR HUGHES: What is your assessment of the principal
13 causes of youth becoming career criminals?

14 MR. BROWN: That's an awful tough question. I don't know
15 that anybody knows the answer to that.

16 I think education is certainly part of it. I think
17 community is part of it. I think parenting is part of it. I
18 think it's a very -- crime is very, very complex, and multiple
19 causes, and multiple solutions are necessary to deal with it.

20 SENATOR HUGHES: Do you think any of this background and
21 experience on your part, and the roots of the Governor in
22 reference to Corrections and Youth Authority, has in any way
23 molded his attitudes towards a change in welfare policies?

24 MR. BROWN: I don't remember ever having a discussion with
25 him like that, and I don't think it's certainly affected mine.
26 We've discussed -- I've spent a lot of time discussing
27 Corrections with him. I don't think I've ever had a discussion
28 with him that related the two subjects.

1 SENATOR HUGHES: Because, you know, I oftentimes wonder if
2 people don't get enough money meet their needs, does it push them
3 in the other direction, to take what is not rightfully theirs.
4 Or does it, on the other hand, motivate them to be more self-
5 sufficient.

6 MR. BROWN: I think it probably does some of that to each
7 group of people. It's a very complex subject, and --

8 SENATOR HUGHES: The only reason I ask you that is because
9 you've had experience in these other areas.

10 MR. BROWN: It's -- I mean, it's clear that if you went to
11 the Youth Authority or Corrections, you would find a lot of
12 people who were there who were from very difficult circumstances.
13 Unfortunately, you'd also find some that are -- you can find no
14 good reason for them being locked up, and they certainly are
15 locked up, you know, by background, by family wealth, by
16 education. You find a whole mix of people.

17 I'd argue I think education is probably as important as --
18 the one consistent theme I ran into, I think, as I trooped around
19 those institutions was, with a few obvious exceptions, a vast
20 number of very poorly educated young people.

21 SENATOR HUGHES: Yes. What do you think about the
22 education, which is not formalized, but the educational
23 experiences that young people had, being in contact with
24 criminals in the Corrections system, influences their direction
25 in life? Do they then get more ideas on how to be a better
26 citizen or how to be a better criminal?

27 MR. BROWN: I think they get both. Some of them get --
28 some of them -- generally, I'll tell you what I learned very long

ago in the Youth Authority from a very senior person.

A third of the young people in the Youth Authority you can have a big impact on, what you do makes a lot of difference. A third of the young people are never coming back to the Youth Authority, no matter what you do, it was such a scary experience they want no part of it. And a third, no matter what you do, they're going to go right on to prison. They're going to be criminals the rest of their life.

The only problem you have is, you don't know which young person is in which third.

And I think that is as true when I heard it 20 years -- almost 20 years ago, it's as true today as it was back then.

SENATOR HUGHES: How could you make these programs better in terms of making them more motivated to become self-sufficient, productive citizens of our society? And where does that responsibility really lie? Is it at the local level, or is it at the state level, or a combination thereof?

MR. BROWN: Most young people, fortunately, never make it to the state level. So, most young people who come into the criminal justice system end up at the local level, so obviously locals deal with it. The Youth Authority gets about -- if I remember right -- about 3,000 young people a year committed to it, which is a huge number compared to other states. It is not a huge number compared to the number of at-risk young people in this state.

So, locals obviously have to deal with it as much as anything else.

I think what Youth Authority can do, and what an

1 incarceration system can do, is give people an opportunity to
2 develop some values and understand why the society functions the
3 way it does. It's very difficult. It's a lot easier to teach
4 somebody how to work a piece of machinery and so on, but dealing
5 with values is much, much more difficult. And to understand why
6 society works the way it does, and convince -- let them come, I
7 guess, to their own conclusion that it's the right way to live is
8 very challenging. I think we can give them skills. Skills are
9 pretty easy to give. You can teach skills.

10 I think the Free Venture concept, which allows employers
11 to come in and hire people on the facilities, certainly can teach
12 people how to work in a work environment. The values are the
13 challenging part of it.

14 And I think the Youth Authority has a very good staff, and
15 there's a lot of good counseling, and a lot of good group
16 sessions going on. And some of it takes, and some of it doesn't.

17 CHAIRMAN LOCKYER: Did you have any opportunity to discuss
18 this job with predecessors, people who have held --

19 MR. BROWN: Absolutely, at least three of them.

20 CHAIRMAN LOCKYER: Three? What was their advice? Were
21 they the same or different?

22 MR. BROWN: I think it varied depending on how they viewed
23 doing the job. I mean, they certainly made it -- all three made
24 it very clear who my number one customer would be.

25 CHAIRMAN LOCKYER: The Governor.

26 MR. BROWN: The Governor.

27 In varying degrees, there was advice as it related to the
28 kind of putting the budget together. I think Russ and Tom were

1 very clear on the difficulties of the Prop. 98 challenge. You
2 know, putting aside the issue of, is it a good or a bad thing to
3 spend more money on education --

4 CHAIRMAN LOCKYER: Just the details.

5 MR. BROWN: Just the constraint. So, they were slightly
6 different, but I think it was -- it was fairly consistent that,
7 pay a lot of attention to the Governor, and try to make sure he
8 isn't surprised, and try to do a budget that meets his needs as
9 well as the needs of keeping this government running. This is
10 also despite the fact that a budget is a -- gets a lot of high
11 level policy review. There's a lot of sort of nuts and bolts in
12 the budget that are necessary just to keep the machinery of
13 government going.

14 We're the -- and I'm sure you've seen, we're the seventh
15 biggest government in the world. It's not a -- keeping that
16 machinery going takes a fair amount of detail.

17 CHAIRMAN LOCKYER: In that respect, I would like to offer
18 compliments of colleagues and staff that have made the comment
19 that they are pleased both by the professionalism of their
20 contacts with the Department, and also the minimum of
21 partisanship that they experience, that it seems to be trying to
22 serve everybody regardless of party affiliation, or region, or
23 whatever.

24 So, for all of your group, I'd like to compliment you from
25 our group.

26 MR. BROWN: Thank you. I appreciate that, and I'm sure
27 the staff most certainly appreciates that comment.

28 CHAIRMAN LOCKYER: Anything else? Senator Ayala.

1 SENATOR AYALA: Just one more time, you have your Bachelor
2 of Science degree, as well as a degree in business
3 administration.

4 How do you think it assists you in helping you with the
5 responsibilities of the Governor's chief fiscal policy advisor?

6 MR. BROWN: I think both that degree and my public
7 administration degree taught me the importance of good -- and
8 really, even more certainly, Alan Post taught me the importance
9 of good analysis and good facts, that you have to bring good
10 information forward for decision makers, that you have to collect
11 the right information.

12 You have to put it in some sort of form that's usable.
13 You have to be able to lay out options, and pros and cons to
14 those options, and make a recommendation, but really, that the
15 fundamental part of it is gathering good information.

16 And I think whether you're a business person, or a public
17 policy person, or whatever, the kind of fundamental, basic thing
18 you do is gather the relevant and best possible information that
19 you can come up with, put it in some sort of usable format, and I
20 think those are skills I got out of all of that.

21 CHAIRMAN LOCKYER: All right.

22 John, do you want to make a motion on this matter?

23 SENATOR LEWIS: Move we recommend confirmation.

24 CHAIRMAN LOCKYER: All right.

25 Is there anyone who'd care to testify?

26 Call the roll, please.

27 SECRETARY WEBB: Senator Ayala.

28 SENATOR AYALA: Aye.

1 SECRETARY WEBB: Ayala Aye. Senator Brulte. Senator
2 Hughes.

3 SENATOR HUGHES: Aye.

4 SECRETARY WEBB: Hughes Aye. Senator Lewis.

5 SENATOR LEWIS: Aye.

6 SECRETARY WEBB: Lewis Aye. Senator Lockyer.

7 CHAIRMAN LOCKYER: Aye.

8 SECRETARY WEBB: Lockyer Aye. Four to zero.

9 CHAIRMAN LOCKYER: Thank you, and keep up the good work.

10 MR. BROWN: Thank you, Senator.

11 CHAIRMAN LOCKYER: We had scheduled Roberta Mendonca for
12 today, the Chief of Labor Standards Enforcement. I suggested
13 that we postpone that one for a time to try to resolve some of
14 the underlying disputes that are complicating consideration of
15 her confirmation. So, we won't hear that one today, and it will
16 be rescheduled at a different date.

17 Mr. Sylvester is next.

18 Senator Leslie, are you here for that purpose?

19 SENATOR LESLIE: Yes.

20 CHAIRMAN LOCKYER: Come on up.

21 You know, though, that he has at least two kids that are
22 attorneys, two out of three?

23 SENATOR LESLIE: Well, I didn't know that. In fact --

24 CHAIRMAN LOCKYER: Oh, no, I take that back. A CPA, a
25 nurse, and an attorney.

26 MR. SYLVESTER: It's called a balanced portfolio.

27 CHAIRMAN LOCKYER: Yes, he's taken care of all of his
28 personal needs here.

1 Senator, go ahead.

2 SENATOR LESLIE: Thank you.

3 This is a very happy day for me, to be able to come and
4 speak on behalf of Ed Sylvester for the Transportation Commission
5 appointment.

6 In fact, I've been a Member of the Legislature, and I'm
7 just starting my 11th year, and this is the first time I've ever
8 come to a confirmation hearing. I've never done this before. I
9 saved it for the right occasion, and Ed is certainly that
10 occasion.

11 One thing I wanted to just draw to your attention that I
12 think is worth noting is that the laws relating to the
13 Transportation Commission require that the membership of the
14 Transportation Commission be from throughout the State of
15 California.

16 However, the last member of the Transportation Commission
17 that came from a rural part of California was Richard Azevedo,
18 who was from Auburn, and a Democrat whom I asked to have
19 reappointed about ten years ago now, but he wasn't reappointed.
20 And it's been all this time that, actually, we've been out of
21 compliance. And of course myself, along with other Senators and
22 Legislators from rural areas have made this known to the
23 administration. But for whatever reason, it's taken this time
24 for an appointment from rural California.

25 We worked with the administration in trying to help them
26 by doing our own little search of qualified people, and submitted
27 several names to Governor Wilson for his consideration of people
28 who would be very excellently well qualified, who have the right

1 demeanor, and who really have the interest of the entire state,
2 but the knowledge to bring a rural point of view into the mix.

3 Certainly with the number of miles of highways that are in
4 rural California, it's critical that we have someone who
5 understands this and can relate the kinds of issues that are
6 sometimes different than they are in other parts of the state.

7 So, Ed Sylvester's name was one the ones submitted. He's
8 a fine individual. He's knowledgeable in transportation issues.
9 You actually know more about him than I do, based upon the
10 research that's probably before you. But I know that it would
11 tell you that he's well qualified.

12 He's highly respected in the community, not just in Nevada
13 County, but throughout all of California, and certainly the rural
14 parts of the state. I think he'd do an outstanding job, and it's
15 a real pleasure for me to recommend him to you.

16 CHAIRMAN LOCKYER: Thank you, Senator.

17 Mr. Sylvester, if you want to start with any opening
18 statement, that would be appropriate.

19 MR. SYLVESTER: I might just give you a brief overview of
20 my background.

21 I live in Nevada County. I've lived there for over 30
22 years. I'm a civil engineer in private practice there. I have
23 an office in Nevada City and one in Truckee.

24 I was appointed to the Commission in March and served
25 there since that time. I'm now serving as the Vice Chair.

26 Prior to that, I was on the Nevada County Transportation
27 Commission for over 15 years, and on the Technical Advisory
28 Committee. I also served on the California Alliance for Advanced

1 Transportation System Board for a year prior to my appointment to
2 the CTC.

3 Basically, I've spent virtually all my career in
4 transportation.

5 CHAIRMAN LOCKYER: Well, there's probably lots of things
6 we could talk about, I suppose.

7 Have you been on a year yet?

8 MR. SYLVESTER: Since March, Senator.

9 CHAIRMAN LOCKYER: Almost a year.

10 What are your observations regarding the Transportation
11 Commission and what role it has, or what concerns you may have
12 developed as to its ability to meet the challenges?

13 MR. SYLVESTER: Well, I think the fundamental, of course,
14 is the lack of funding and funds. But it's an enormously complex
15 problem, but I guess I'm encouraged that we're coming into an
16 era, I think, of there's going to be some great progress made,
17 hopefully, in transportation overall.

18 I look back at years ago, in the late '50s and '60s, and I
19 worked for Caltrans when I was going to college. And that was a
20 great time in California transportation, and I think we're on the
21 eve of that again.

22 It's a tremendously complex subject, obviously, and I
23 bring a rural perspective to that. But also, I think I have a
24 feel for the overall.

25 I think the biggest challenge is to try to get to places,
26 see what's really happening, and get a feel for where we can best
27 put the money.

28 CHAIRMAN LOCKYER: I note that a couple years back, the

1 Commission made a recommendation to the Legislature -- this
2 predates you -- basically suggesting that there's perhaps as much
3 as a \$12 billion annual need for additional funding of highway
4 and mass transit projects.

5 Does it feel that way to you? I don't know about the
6 specific dollar amount, but does it feel that way to you, that
7 there's a pretty substantial unmet need that we need to figure
8 out?

9 MR. SYLVESTER: Well, yes, Mr. Chairman. And it's in so
10 many sectors. It's not -- I think it's so important that we
11 maintain those facilities that we have. We have a tremendous
12 investment, so as you know, the Commission, in view of all, put
13 more money into the SHA program. We're going to take a look at
14 that again. And I think that's of prime importance, to maintain
15 our basics.

16 But from there, it's just virtually expedient at this
17 point, the needs that we have out there to provide.

18 As NAFTA has come, is moving forward, we're seeing an
19 additional need was built into that, the need for economic
20 development overall statewide. So, transportation has really
21 become a major issue, I think, in the well being of the state.

22 CHAIRMAN LOCKYER: Obviously one sub-set is seismic
23 retrofit. Some of us have special worries because of the nature
24 of where ever our districts may fall. I guess everybody's
25 concerned whether they have a bridge affected, or funding that
26 could be for something else that might be at risk.

27 Do you have a sense of what's happening at CTC now with
28 respect to programming the STIP, and how seismic retro will fit

1 into the package?

2 MR. SYLVESTER: Well, basically we're waiting for
3 resolution of that issue between the Legislature and the Governor
4 which will open up a lot of work for the Commission in terms of
5 the determination of the fund balance and then moving on to the
6 STIP. And so, we're quite anxious that that be resolved, because
7 we're -- in a sense, we're stalemated from really moving forward
8 and moving a lot of that money out into pavement and the other
9 transportation needs.

10 CHAIRMAN LOCKYER: Well, keep pushing. I'd like to see it
11 resolving, too.

12 MR. SYLVESTER: Absolutely. It's really critical.

13 CHAIRMAN LOCKYER: Are there questions from Members?
14 Senator Ayala.

15 SENATOR AYALA: Mr. Sylvester, the voters of California
16 rejected the last two bond issues for transportation. Obviously,
17 we're in dire need of some financial assistance.

18 Do you have any suggestions or ideas that you would prefer
19 in terms of enhancing the moneys for transportation in
20 California? Would you prefer a bond issue, gasoline sales tax?
21 How do you think we ought to address that?

22 MR. SYLVESTER: Well, Senator, I don't -- I mean, there's
23 all those combinations of things, and they affect different
24 regions differently in how people perceive those.

25 I think that one of the main things that we can do is to
26 work within some of the funding that we have. Recently, we
27 looked at the SHA program, looked for some new, innovative ways
28 to improve deliveries and to decrease the amount of moneys that

1 are expended on overhead and engineering.

2 I think that a lot of the areas like that, where we can
3 show that we can make the best use out of the transportation
4 dollars we have, and then it might be interesting to see how
5 different votes for increased moneys come on line when we show
6 those kind of performances.

7 SENATOR AYALA: There is a great need for seismic
8 retrofitting and maintenance. I'm told we can't continue
9 maintaining and building new highways with existing resources.

10 I don't think we can just sit back and watch our
11 transportation highways and bridges deteriorate any further, so
12 we'll have to do something. And you have no idea how we can
13 shore up our revenues?

14 MR. SYLVESTER: Well, that's really outside the province
15 of the Commission. But I'm sure that, as time goes on, we'll
16 begin to see maybe some avenues willing to open up as
17 transportation becomes more and more a concern for the citizens
18 of the state. Then they may become more receptive to additional
19 -- putting forth additional funding.

20 SENATOR AYALA: So, you have an idea of the best way to
21 go. I know that your responsibility's not to raise revenues, but
22 to spend them with the STIP recommendations.

23 MR. SYLVESTER: Yes, sir.

24 SENATOR AYALA: But sooner or later, we're going to have
25 to come up with a way to raise the funds for those problems as
26 they exist today, and I just wondered if you had any ideas which
27 is the best way to go?

28 MR. SYLVESTER: Well, again, that's a little outside the

1 province of the -- of what the Commission's responsibilities to
2 do, but again, I go back to certain areas of the state that see
3 things somewhat differently.

4 I know in the rural counties, for us to pass bond
5 measures, sales tax measures, it's very difficult because of the
6 makeup of a lot of retirees and fixed income people. So, they're
7 looking at those kind of expenditures as being something -- any
8 issue like that being critical.

9 But I do think that you do -- you see a need. You saw the
10 proposition pass on seismic retrofit when the people really were
11 aware of the kind of problem that existed. So, I think the more
12 that we work towards improving the system and being more
13 efficient with the dollars, the more likely we'll see more -- a
14 move towards generation of the different funds.

15 CHAIRMAN LOCKYER: There's a segment of our materials that
16 I ask about just because I think it's probably constructive to
17 talk about the problem publicly, and it's the Vector Engineering
18 dispute.

19 We were contacted by some press person that suggested it
20 illustrated a potential conflict of interest. And while that
21 doesn't appear to be true, at least from my examination of the
22 documents, I wanted to make sure you had an opportunity to
23 comment on the matter.

24 MR. SYLVESTER: Well, if you've seen -- the comments
25 probably came from our county counsel and probably from the
26 Attorney General's Office, that that was reviewed at some length,
27 and there was a settlement that was reached, but it was an
28 unfortunate situation where we have a contract, and some four

1 months -- and portions of the contract. And some four months
2 after the project started, it was given, and there was -- a lot
3 of it was given to the Board of Supervisors, of which there was
4 some concern expressed that there was a potential conflict
5 because I served on a county committee that had some
6 responsibilities for the landfill.

7 But after everyone looked through it, they came to that
8 resolution, and in fact the agreement is very specific in all
9 cases that there was no indication whatsoever that there was a
10 conflict.

11 CHAIRMAN LOCKYER: I agree with your assessment. I just
12 thought it should be publicly mentioned.

13 Yes, Senator Hughes.

14 SENATOR HUGHES: Can you think of anything that we, as a
15 state, can do to reduce congestion, delay, in our highways?
16 People always say, "They're always fixing something, and we're
17 always delayed. We never know whether to leave for work an hour
18 in advance, or an hour and a half in advance."

19 How do you get around this and do the work that we're
20 supposed to do? Do you have any ideas? Are you coming up with
21 any solutions to any of these problems?

22 Because some of the freeways are just impossible.

23 MR. SYLVESTER: Right.

24 Well, again, I haven't really worked on this specific, but
25 I know what you mean from my own private practice to try to make
26 that work. But I guess it's somewhat of a Catch 22, in that if
27 people are out there working and fixing the roads, that's a
28 positive thing. And on the other hand, it's a negative with

1 those that have to deal with it.

2 SENATOR HUGHES: Is it the time, the clock time that it's
3 done in, or could Caltrans get up earlier and do what they'd have
4 to do? Or should they go later and do it? Or what should we do?
5 Are you dealing with that at all?

6 MR. SYLVESTER: Well, we're not dealing with it all, but
7 it's obviously a concern because that's something where there's a
8 public perception of how things are done.

9 But I think if you look down in San Francisco and the Bay
10 Shore and other areas, where it's very critical, as you're
11 pointing out, with the volumes of traffic and the delays, that
12 they're beginning to work the off-hour shifts and at night. But
13 even then, it's still a problem because there's just so much
14 traffic at all hours of the day.

15 But that -- there's a real awareness coming about, and
16 like I say, it's kind of a -- as long as we're out there fixing
17 the roads, that's a positive thing. And we'll eventually get the
18 relief with that.

19 SENATOR HUGHES: Then the last question I have is the one
20 that all my constituents and everyone in the state becomes
21 concerned about. If we do need to raise gasoline tax to
22 adequately maintain our roads and highways, because people are
23 saying, "California's no longer what it used to be. There are
24 potholes, potholes everywhere."

25 So, do you think we have to raise the raise the gas tax,
26 or do you think we can --

27 MR. SYLVESTER: Well, I think, as the Chairman pointed
28 out, the deficit is -- we're falling more and more behind all the

1 time. So, as you see more fuel efficient vehicles, and you see
2 all of the factors that are running against us all the time,
3 we've got to come to the point somewhere to find out -- to set up
4 -- to have some more funding, because even with the alternative
5 forms of transportation to the automobile, that's still not
6 keeping up with the pace of where we are.

7 So, at some point I think we're going to be in a stage
8 where people are going to say, "Okay, it's time now that we begin
9 to -- we're going to have to put some money into making this
10 thing work."

11 So, I think we may be getting closer to that all the time.
12 I hope so, because we just can't afford to fall any farther
13 behind.

14 CHAIRMAN LOCKYER: Mr. Sylvester, I want to ask, just to
15 figure out if this is truly what it says. I was reading your
16 personal vita. Between '68 and '75, when you were Bertino &
17 Sylvester, responsible for all engineering faucets?

18 MR. SYLVESTER: Faucets?

19 [Laughter.]

20 CHAIRMAN LOCKYER: Were you really in charge of faucets
21 for the company? I notice you were doing sewage, drainage, and
22 so on.

23 MR. SYLVESTER: Well, when you have an organization as
24 small as mine, and you live in a rural county, you can be in
25 charge of faucets any given day.

26 [Laughter.]

27 CHAIRMAN LOCKYER: You might look at that. It may be the
28 word you meant.

1 In the last year, is there any particular issue that came
2 before the Commission that stands out in your mind as the most
3 difficult decision, where you had to struggle and weigh and think
4 about it? Anything that stands out?

5 MR. SYLVESTER: Well, there's been a lot of them.

6 I think one of the -- one issue we have looked at is some
7 of the cost overruns that have happened on projects. And the
8 Chairman charged me with the duty of talking to -- of taking a
9 look at some of those issues.

10 So, I went out in the field and met with the engineers in
11 the field, and expressed the concern we have over expenditures of
12 those things. And even though that was difficult in the sense of
13 seeing the amount of moneys, when it was over I felt a sense of
14 accomplishment in the sense that I felt that we were making some
15 headway, that we expressed concern that this was happening.

16 And hopefully, I can continue to bring that kind of
17 perspective, because as a civil engineer, I can go out and talk
18 to another engineer and --

19 CHAIRMAN LOCKYER: More authority or whatever, expertise.

20 MR. SYLVESTER: And we're not giving each other different
21 stories.

22 CHAIRMAN LOCKYER: Do you have a sense of what the
23 principal cause might be of those kind of overruns? Have you had
24 enough different --

25 MR. SYLVESTER: I'm sure, obviously, it varies from
26 project to project, and that sort of thing.

27 CHAIRMAN LOCKYER: Are there any systemic things?

28 MR. SYLVESTER: Yeah, I think we're beginning to find

1 some, some on the front-end of the design phase. Many of those
2 were, for whatever reason, began to see some of those, and so
3 we've started to address to issues. And hopefully, it'll be
4 effective, because there's a lot of projects that go out there.
5 And if we can get them properly done, get the base done properly
6 up front, it makes a world of difference. And I've experienced
7 that all my career, that you'd better get it right.

8 CHAIRMAN LOCKYER: So there may be under-estimating of
9 potential costs in the early design? Is that what that means?

10 MR. SYLVESTER: Yeah. Many times, exactly. It's because
11 if you don't have proper information that show where the red
12 flags might be or where it's critical, then you usually don't do
13 the sufficient research and that.

14 And so, I think there are some systemic things out there
15 that can be adjusted.

16 CHAIRMAN LOCKYER: How much time do you estimate you
17 devote a week, or a month, or whatever, to work that's
18 Commission-related?

19 MR. SYLVESTER: Well, I guess it's probably been the
20 better part of two days a week now, just because I've got to come
21 up with the learning curve. I've been fortunate in having been
22 around a commission, I understand some of the acronyms, but --

23 CHAIRMAN LOCKYER: Good for you, though. That's a lot of
24 time.

25 MR. SYLVESTER: It is. It's a lot of time, but I --

26 CHAIRMAN LOCKYER: You're donating that, in effect, to the
27 state and the citizens. That's very commendable.

28 Do you get lobbied a lot on issues? Do people seek you

1 out, other than just bumping into you when you're in the
2 neighborhood?

3 MR. SYLVESTER: Well, I've had some of that. But, of
4 course, I live in Nevada City, so it's not conducive to drop-ins,
5 but of course, when I've been to Commission meetings, I've had --

6 CHAIRMAN LOCKYER: Yes, and people interacting.

7 MR. SYLVESTER: -- conversations with people who, you
8 know, have their own interests.

9 CHAIRMAN LOCKYER: Who do you hear from? Are there
10 categories?

11 MR. SYLVESTER: Mostly transportation agencies. They're
12 the ones that, of course, are most interested, the large ones and
13 small ones. And of course, it's been gratifying in a sense that
14 a lot of the rural transportation people have come and talked to
15 me, and I've been the liaison to the Rural Counties Task Force.
16 And that's given me some insight and an opportunity to meet more
17 closely and listen to their concerns.

18 CHAIRMAN LOCKYER: I guess the initial rationale for
19 having a CTC was that it would be an independent group, a fairly
20 nonpolitical decision making group in charge of transportation
21 planning.

22 Is it your sense that you're given plenty of space to
23 develop your own positions by the appointing authorities?

24 MR. SYLVESTER: That's certainly been my experience to
25 this point. I've been, you know, I've looked at things and
26 discussed them with staff, and gone through issues, and done
27 whatever homework I need to do to try to best understand it. And
28 up to this point, I've had a very open -- I haven't had any

1 problems in that respect.

2 CHAIRMAN LOCKYER: Anything else? Anyone wish to comment
3 at all at present?

4 SENATOR LEWIS: I'd like to move confirmation.

5 CHAIRMAN LOCKYER: All right, call the roll, if you will.

6 SECRETARY WEBB: Senator Ayala.

7 SENATOR AYALA: Aye.

8 SECRETARY WEBB: Ayala Aye. Senator Brulte. Senator
9 Hughes.

10 SENATOR HUGHES: Aye.

11 SECRETARY WEBB: Hughes Aye. Senator Lewis.

12 SENATOR LEWIS: Aye.

13 SECRETARY WEBB: Lewis Aye. Senator Lockyer.

14 CHAIRMAN LOCKYER: Aye.

15 SECRETARY WEBB: Lockyer Aye. Four to zero.

16 CHAIRMAN LOCKYER: Good luck, sir.

17 MR. SYLVESTER: Thank you very much. I appreciate the
18 kindness of your staff and everyone's staff in meeting with me
19 beforehand.

20 CHAIRMAN LOCKYER: Thank you for your public service.
21 It's quite commendable.

22 MR. SYLVESTER: Thank you, sir.

23 [Thereupon this portion of the
24 Senate Rules Committee hearing
25 was terminated at approximately
26 3:45 P.M.]

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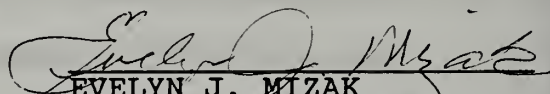
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SENATOR JOHN LEWIS, Vice Chair

SENATOR RUBEN AYALA

SENATOR JAMES BRULTE

SENATOR TERESA HUGHES

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

ALI RAZI, Trustee
California State University

BOB GURIAN, Legislative Director
California Faculty Association

DR. ROLLAND K. HAUSER, Vice President
California Faculty Association

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P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

On the Governor's appointees, our first appointee today for confirmation is Mr. Ali Razi, Trustee of the California State University system.

Mr. Razi, welcome.

MR. RAZI: Thank you, Mr. Chairman.

SENATOR LEWIS: Would you like to give some kind of an opening statements?

MR. RAZI: Yes, Mr. Chairman, Members. I have a strange name and a heavy accent, so I would like to say few words why I'd like to do this.

I'm son of an educator. My father spent all his life, the most important thing to my family was education. And I wouldn't have had the opportunity to get the kind of education I had if I didn't have a scholarship.

To be part of a team whose mission is affordable, accessible, and quality in our education is something I love, and that's why I'm here.

SENATOR LEWIS: All right, thank you very much.

Any Members of the Committee have any initial questions for Mr. Razi?

SENATOR HUGHES: I do.

SENATOR LEWIS: Yes, Senator Hughes.

SENATOR HUGHES: Students are taking six to seven years to obtain their degrees when, years ago, they didn't stay in school that long to complete a bachelor's degree.

We are at very scarce resources now. What do you

1 think the system can do to alleviate a system like this?

2 MR. RAZI: One of the missions is the
3 accessibility to education.

4 With long distance learning, improvement on long
5 distance learning, and a center like Stockton of the partnership
6 which has been approved for Stockton Development Center, these
7 are, if I understood the question, Senator, correctly, how can
8 we help the students, which majority are now working and
9 studying. And we need to make it easier for them for long
10 distance learning, and for a tidal wave future expansion, taking
11 the expansion where there are more demands for it.

12 SENATOR HUGHES: How would you characterize the
13 CSU Trustees' position on Proposition 209, affirmative action
14 and preferential treatment? How would you characterize it?

15 MR. RAZI: The Board has checked and made sure
16 that, one way or another, the CSU is abiding to the law. And
17 that in our system, we do not have any program that would be
18 affected with it.

19 SENATOR HUGHES: What role is played by the
20 faculty in the administration of CSU, and what role is there for
21 students, and also for the community and business interests?

22 MR. RAZI: Shared government. The involvement of
23 faculty, which is very important part of success of the mission,
24 and the student, participation of the students which we are all
25 about.

26 That's why we are all about at CSU, and
27 especially with the shortage of project and resources,
28 involvement of community, especially through the alumni group,

1 the program that has started, and I think there's a great
2 potential for it to try to educate the public in the importance
3 of the mission of CSU.

4 They all are important to be involved in this
5 process.

6 SENATOR HUGHES: No further questions, thank you.

7 SENATOR LEWIS: Mr. Razi, in your tenure on the
8 CSU Board, what's the one thing, perhaps, that you've learned
9 that's really surprised you about the system?

10 MR. RAZI: Probably the thing the thing that has
11 affected me most was in one of the -- I took part in the
12 graduation at Long Beach State University, when Bob Maxson asked
13 those who are the first college graduate to stand up. Forty
14 percent of the kids stood up.

15 That was the greatest, I think.

16 SENATOR LEWIS: Senator Ayala, do you have any
17 questions?

18 SENATOR AYALA: I have no questions.

19 SENATOR LEWIS: Welcome, Senator Lockyer.

20 CHAIRMAN LOCKYER: What has been your experience
21 with regard to compensation at the CSU system? Do you think
22 that the compensation right now is sufficient to attract
23 quality? Are we having a problem with getting it right now?

24 MR. RAZI: Based on the California Post-Secondary
25 Education Commission, we need to make sure we have a competitive
26 position for the faculty and compared to the resources. And
27 what we have, I mean, the Trustees have to decide based on
28 that.

1 CHAIRMAN LOCKYER: I'm trying to catch up here.

2 Have all Members of the Committee had an
3 opportunity to ask Mr. Razi any questions?

4 There were ones I circled, but I heard at least
5 some of them as I walked in by Senator Hughes on Proposition
6 209.

7 I'm not sure I heard what current programs or
8 discussion there may be that would try to implement diversity in
9 the faculty and student body, independently from all the 209
10 pro-con debate.

11 Are there things happening that show some concern
12 about diversity in student body and faculty that we should know
13 about?

14 MR. RAZI: Mr. Chairman, the mission of CSU for
15 an affordable and accessible higher education means that
16 everyone should be able to have the opportunity. And they
17 have -- it has been checked to make sure that, I mean, the
18 whole program is to afford.

19 We don't have a problem as far as gender issue or
20 race issue in CSU. There's not a problem.

21 Our mission is to make sure -- I mean, when you
22 provide accessible and affordable education, you are really
23 allowing the diversity. I mean, this is this whole mission.

24 CHAIRMAN LOCKYER: At the campus in my district,
25 that is Hayward State College, I've recently been approached by
26 professors with a complaint that may well be a problem in many
27 other campuses, but basically, the worry was the proportion of
28 teaching positions that are held by part-time instructors. So,

1 there are a lot of no benefits, lower pay, and so on, that are a
2 result.

3 Did this already get talked about earlier?

4 Is this something you hear about as a Trustee?

5 MR. RAZI: Yes. I received, Senator,
6 Mr. Chairman, I received a letter. And I have not looked into
7 it.

8 I really don't have an answer for that.

9 CHAIRMAN LOCKYER: Well, I think you'll probably
10 hear more and more about that, or people that would hope for
11 secure and appropriately compensated jobs that reflect
12 professional teaching and research, rather than simply relying
13 on part-time faculty.

14 That's not to say the part-time the faculty can't
15 do a good job, but it really is a different kind of an
16 educational institution if the bulk of the positions are of that
17 sort.

18 Anyone present who wishes to comment? Yes, sir.

19 MR. GURIAN: Members, I'm Bob Gurian, the
20 Legislative Director of the California Faculty Association.

21 Today, the testimony for the CFA will be given by
22 Rolly Hauser, Vice President from Chico State University.

23 DR. HAUSER: Thank you, Mr. Chairman, Senators,
24 and Trustee Razi.

25 I'm Dr. Rolly Hauser. I'm a Vice President of
26 the California Faculty Association. I'm a Professor of Geo
27 Sciences at Chico State University.

28 I'd like to thank the Committee for the

1 opportunity to testify today. The CFA wants to work closely
2 with the CSU Board of Trustees on the team to secure the best
3 possible public support for the CSU.

4 I would like to make just six brief points.

5 I've come here today to share CFA's general
6 concerns regarding recent actions of the California State
7 University's Trustees.

8 I want to make it clear at the outset that CFA is
9 not testifying against Trustee Razi's confirmation at all, but
10 rather to inform the Committee that the faculty believe all
11 future confirmations of sitting Trustees should be based on
12 evidence that that sitting Trustee's commitment is to
13 maintaining a high quality teaching faculty in the CSU.

14 The second point I want to be very clear about.
15 CFA's testimony today flows from CFA's single top priority. We
16 seek the highest and best quality education for the students of
17 the CSU, and this priority, in turn, means that the CSU must
18 employ and retain the highest quality teaching faculty.

19 The third point is that CFA is concerned that CSU
20 Trustees seem to be imposing a factory model on the University.
21 Great universities are not factories. Instead, they have a
22 tradition, which Trustee Razi has referred to, of shared
23 governance, where faculty concerns regarding curriculum and
24 resource allocation play a pivotal role in University decisions.

25 It seems to us that in the CSU, these fundamental
26 decisions are made by administrators far removed from campus
27 life.

28 While the Trustees do allow for faculty to

1 testify briefly at Trustee meetings, often the major decisions
2 are made by administrators and later are routinely approved by
3 the Board of Trustees.

4 The fourth point has already been raised. It
5 concerns the area of faculty compensation.

6 According to the California Post-Secondary
7 Education Commission, faculty in the CSU are almost eleven
8 percent behind our comparison institutions. Yet, the CSU
9 Trustees have formulated to date no plan to close that gap.

10 Fifth, the CSU's initial bargaining proposal
11 would further widen the salary gap for most of the faculty, not
12 close it. The proposal contains no across-the-board increase.

13 Instead, the CSU Trustees propose a plan where
14 administrators, who are remote from the classroom itself, would
15 determine all faculty pay raises. Shared governance apparently
16 is being scrapped for a factory model, which is not appropriate
17 for higher education.

18 Finally, it is our hope, and we hope this
19 fervently, that Trustee Razi, when confirmed, will look closely
20 into these important matters and will be open to meetings with
21 faculty so that he can address issues as a Trustee with an
22 understanding of the faculty's opinions in addition to the
23 opinions of CSU and administrative personnel.

24 Thank you for the opportunity to testify today.
25 The faculty has always found the California Legislature
26 interested and willing to act on faculty concerns. Hopefully,
27 the Trustees will also.

28 Thank you.

1 CHAIRMAN LOCKYER: Thank you, Doctor.

2 I might mention that one of the formative
3 experiences for me as a young student at UC Berkeley some years
4 ago was reading a publication of President Clark Kerr in which
5 he compared the University to a tack factory and said explicitly
6 that we're mass producing tacks.

7 Well, I disagreed and was among those who sat at
8 Sproul Hall to make a point when there was no other way to get
9 the University leaders to listen to students that thought they
10 deserved a richer role in governance and to be considered more
11 than tacks. Anyhow, there's a long history of administrators.

12 I've never seen anything like that from
13 Dr. Munitz. He seems at least to not exhibit the tack factory
14 philosophy, that I'm aware of.

15 SENATOR BRULTE: That's why I don't have a sharp
16 edge and you do.

17 [Laughter.]

18 DR. HAUSER: Sometimes we just wish the
19 opportunity --

20 CHAIRMAN LOCKYER: He went to the door knob
21 factory.

22 [Laughter.]

23 DR. HAUSER: -- to make sure the item is turned
24 around so you know for sure which end you're looking at.

25 CHAIRMAN LOCKYER: Yes.

26 Are there specific policies that you want to
27 mention, other than the general one you mentioned with respect
28 to funding?

1 DR. HAUSER: Well, we think that the quality of
2 education in the CSU, its most formative factor is the quality
3 of the faculty.

4 The compensation and the work we do in the CSU is
5 known now across the country, which is the market we're going to
6 be drawing our new people from, and we wish to have the
7 California State University in the future be a place where
8 academic careers will be valued by the state and help keep the
9 economic engine of the state alight.

10 CHAIRMAN LOCKYER: Any other questions?

11 Thank you very much.

12 What's the pleasure of the Committee?

13 SENATOR BRULTE: Move it.

14 CHAIRMAN LOCKYER: We have a motion to recommend
15 confirmation to the Floor.

16 Call the roll, if you would.

17 SECRETARY WEBB: Senator Ayala.

18 SENATOR AYALA: Aye.

19 SECRETARY WEBB: Ayala Aye. Senator Brulte.

20 SENATOR BRULTE: Aye.

21 SECRETARY WEBB: Brulte Aye. Senator Hughes.

22 SENATOR HUGHES: Aye.

23 SECRETARY WEBB: Hughes Aye. Senator Lewis.

24 SENATOR LEWIS: Aye.

25 SECRETARY WEBB: Lewis Aye. Senator Lockyer.

26 CHAIRMAN LOCKYER: Aye.

27 SECRETARY WEBB: Lockyer Aye. Five to zero.

28 CHAIRMAN LOCKYER: Well, good luck, and we wish

1 you well.

2 Thank you for your public commitment and time
3 that you're spending in this way. I know it's substantial, and
4 it's commendable that you do.

5 MR. RAZI: Thank you very much, Mr. Chairman,
6 Members. I appreciate it.

7 [Thereupon. This portion of the
8 Senate Rules Committee hearing was
9 terminated at approximately 2:25 P.M.]

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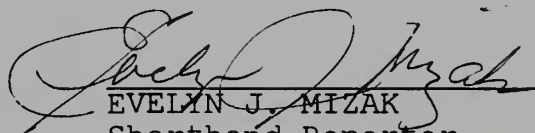
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25 Reported by

26
27 Evelyn J. Mizak
28 Shorthand Reporter

APPEARANCES

MEMBERS PRESENT

SENATOR WILLIAM LOCKYER, Chair

SENATOR JOHN LEWIS, Vice Chair

SENATOR RUBEN AYALA

SENATOR JAMES BRULTE

SENATOR TERESA HUGHES

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

JANET G. NICHOLAS, Member
State Board of Education

SENATOR BETTY KARNETTE

SENATOR MARIAN BERGESON

BOB WELLS

Association of California School Administrators

JOHN MOCKLER

Association of American Publishers

ROBERT M. LYNCH, Editor and Publisher
The Sonoma Index Tribune

MARGARET DeARMAND, President
California Mathematics Council

HENRY L. ALDER, Professor
University of California, Davis

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--ooOoo--

CHAIRMAN LOCKYER: Janet Nicholas is next.

Senator Bergeson, do you want to come up.

SENATOR BERGESON: Thank you, Mr. Chairman and Members of the Committee.

It's with a great deal of pleasure that I appear before you, and particular pleasure to be able to introduce to you Janet Nicholas. I would like to briefly indicate my strong support for her confirmation.

I've known her for many years. I've found her to be a person of tremendous integrity and intelligence. And she served many years of public service in demonstrating her strong leadership abilities.

She has an impressive educational background, with an economic degree from UCLA. She's also very experienced as a business woman, a proprietor of the Nicholas Vineyards, as an economist specializing in export marketing development and facility planning, land use, financial advisor, which provided the background and the expertise for local government service. She served as Chairperson to the Advisory Committee on Juvenile Justice and Delinquency, as a member of the California Council on Criminal Justice, and as a member of the Board of Prison Terms.

Also, and one of areas that I, of course, take great delight in recommending her, is County Board of Supervisor. We worked together on many local government issues, and I always found her to be at the forefront in her leadership

1 ability and promoting good land use policy. Also, she served as
2 a Sonoma County Planning Commissioner.

3 She's a people person. She builds coalitions.
4 She's a consensus builder. She's very much oriented towards
5 results. She's an outspoken proponent for strong educational
6 initiatives that stress basic, fundamental skills, and I think
7 she understands all too well that our students need to be well
8 grounded in order to be successful.

9 The bottom line, Mr. Chairman and Members, is
10 that she wants to do what's best for kids and students. She's
11 dedicated and committed to this end, and I know that she will
12 serve the purposes of the State of California very well in this
13 position. I would heartily recommend her confirmation.

14 Thank you for the opportunity to express my
15 thoughts.

16 CHAIRMAN LOCKYER: Any questions for Senator
17 Bergeson?

18 All right, Ms. Nicholas, do you want to begin
19 with an opening comment?

20 Marian, it's up to you whether you wish to stay
21 or not.

22 SENATOR BERGESON: Thank you, I leave you in good
23 hands.

24 MS. NICHOLAS: Thank you, Senator.

25 I don't have an opening comment. I'd be happy to
26 answer any questions that you or the Committee have, and look
27 forward to doing that.

28 CHAIRMAN LOCKYER: I think maybe it would be

1 constructive to focus our thoughts, to ask for two or three
2 supporters and two or three people who have raised concerns,
3 maybe comment, and that would allow us to maybe focus in on the
4 more relevant considerations.

5 I don't know if you've designated anyone, or if
6 you're aware of someone who wanted, other than Senator Bergeson,
7 to offer supportive commentary.

8 Could we hear from a couple of people in that
9 respect?

10 MR. WELLS: Good afternoon. I'm Bob Wells with
11 the California School Administrators Association.

12 Pleased to be here today to support Janet
13 Nicholas for the State Board of Education. We would encourage
14 you to vote yes and recommend her confirmation to the full
15 Senate.

16 We've gone through an extensive process, both
17 working together over the last ten or eleven months as Ms.
18 Nicholas has been on the State Board, and also over the last
19 month or so in talking about the issues, about confirmation, and
20 how we should work together.

21 We've been very impressed through all of that at
22 the hard work. Not every Board Member devotes as much time and
23 energy to understanding the issues that are before the State
24 Board of Education as does Ms. Nicholas. We find that to be a
25 terribly important thing. It's easy to make mistakes on these
26 important issues if you haven't done your homework, and she
27 does.

28 She's also one of the brightest members we've

1 ever seen serve on that Board, capable of understanding these
2 issues and the arguments for and against them --

3 CHAIRMAN LOCKYER: Who's dumber?

4 [Laughter.]

5 MR. WELLS: We'll leave that for a future day
6 when maybe they'll be people we won't support.

7 We have disagreed on significant issues, so we
8 did go through a --

9 CHAIRMAN LOCKYER: You did disagree?

10 MR. WELLS: We did. We had a fairly public
11 disagreement with the State Board last fall, when the Board was
12 going through the process of adopting new reading textbooks and
13 appointing volunteers to serve on a task force to come up with
14 new math guidelines. But that's to be expected. We don't find
15 many Legislators who vote the right way on every one of our
16 issues either, and that doesn't surprise us that much.

17 What we need more than agreement on every issue
18 is someone who comes to issues with an open mind, will listen to
19 all sides of the issue, have the best interests of our students
20 at heart, and then try to do the right thing. And that's what
21 we have found with Ms. Nicholas.

22 I'd be happy to answer any questions you may
23 have.

24 CHAIRMAN LOCKYER: Was that the only issue that
25 you had some prior disagreement about?

26 MR. WELLS: That's the most significant one.

27 CHAIRMAN LOCKYER: Senator Karnette.

28 SENATOR KARNETTE: There was no disagreement

1 about the math curriculum?

2 MR. WELLS: As I mentioned, it was the reading
3 textbooks and the Math Committee that the State Board was
4 appointing members to serve. There's still work to be done in
5 the area of math, so there aren't any final conclusions there.

6 We do believe that the movement -- the work that
7 the State Board is doing on math is headed in the right
8 direction. We supported the ABC legislation that was enacted
9 last session. We do think that balance needs to be restored,
10 and that in both teaching language arts, reading, and in
11 teaching of mathematics, we need some skills taught. And that
12 while we add those skill-based instructional pieces back into
13 the teaching, we also believe we need to not lose the higher
14 order thinking skills that has been kind of singled out as a
15 component of new math and whole language.

16 So, the task in front of the State Board right
17 now is to not lose any of that. We don't want -- the pendulum
18 in the past has, on occasion, swung too far in both directions.
19 And what we need now is really a complete set of instructional
20 practices that keep skills in the curriculum without losing the
21 higher order thinking skills that we know are important, too, in
22 the information age.

23 CHAIRMAN LOCKYER: Other questions?

24 MR. WELLS: Thank you.

25 CHAIRMAN LOCKYER: Next comment.

26 MR. MOCKLER: Mr. Chairman, Members of the
27 Committee, I'm John Mockler, representing the Association of
28 American Publishers. We represent the entire industry, no

1 individual company.

2 We stand before you to support Janet Nicholas in
3 her confirmation. We have watched her for a year on the Board.
4 We believe she has stood for focusing on what works for
5 children.

6 We, too, have not agreed with her on all issues
7 as an association, and certainly many of our member companies,
8 when either their advantage or disadvantage might be threatened,
9 have taken issue with not only Janet Nicholas but other Board
10 Members.

11 But in the instant case of Janet, she has
12 understood the Board's roll and the Board's constitutional
13 authority well.

14 Some believe that when people advise you, you
15 must take their advice. The law is very clear. There are
16 series of advisors appointed to the State Board of Education in
17 developing a curriculum framework and adopting it, and in
18 developing structural materials and adopting them. That
19 includes a wide array of appointed official advisors, a wide
20 array of members of a curriculum commission, and the statutes on
21 the books require the public to be well versed and to have all
22 materials made available, and to listen to the public. So,
23 State Board is charged with listening to all of those groups
24 prior to making a decision.

25 Some have argued that one part of that advisory
26 process ought to be object obeyed relative to others. That is
27 to say, expert advisors ought to be listened to more strongly
28 than the public at large, or more strongly than a curriculum

1 commission.

2 We believe that you call the public schools
3 public schools because they belong to the public. And the State
4 Board is charged under statute to have a variety of input
5 positions.

6 We would like our voice heard, but we would not
7 be unforgiving towards any Board Member if they did not always
8 accede to our advice.

9 She has been thoughtful. She has learned well.
10 She has been rational and made decisions based upon fact and
11 science, and not on political advantage. So, we would strongly
12 support her as a Board Member.

13 CHAIRMAN LOCKYER: Questions?

14 All right, is Mr. Lynch present?

15 MR. LYNCH: I'm Robert M. Lynch, the publisher of
16 the Sonoma Index Tribune in the City of Sonoma. This is my
17 fifty-first year at that newspaper, and it has been in the
18 family for 113 years.

19 I have known Janet Nicholas for more than 30
20 years, and I've been a follower and admirer of her in her
21 service career while editor and publisher of the Sonoma Index
22 Tribune.

23 Besides, she's a long time subscriber, and we
24 need all the subscribers we can keep.

25 My newspaper has long been a booster of public
26 education. I have been the recipient of the California Teachers
27 Association John Sweat Award for Community Service through
28 Advancement of Public Education, the Elementary School

1 Administrators Association Golden Apple Award for Contribution
2 to Elementary Education, and the Sonoma County School Trustees
3 Association Award for Education Contribution.

4 I made the drive from Sonoma to Sacramento today
5 in continuing support of public education in California, a state
6 obviously in need of all the help it can get when we read the
7 lowly math rankings of recent date.

8 I am here to voice my support for the
9 confirmation of my friend and neighbor, representative Janet
10 Nicholas, to continue serving on the State Board of Education.
11 Much admired and respected in my community, she always does her
12 homework, is a good listener who respects the opinions of
13 others. A pro-education citizen who fights for a common sense
14 balanced approach to solving California's education ills.

15 Her tell-it-like-it-is style is not -- does not
16 always endear her to everyone, but I know that I speak for many
17 in my community when I say the State of California needs more
18 thinking public servants like Janet Nicholas.

19 Please confirm her appointment.

20 CHAIRMAN LOCKYER: Thank you, sir.

21 Is Professor Alder present? Do you want to wait
22 until we get into the math discussion, or do you want to start
23 that?

24 PROFESSOR ALDER: It's up to you.

25 CHAIRMAN LOCKYER: I don't know what would be the
26 more constructive way to get into that issue, because we're
27 going to have to do that soon.

28 PROFESSOR ALDER: Maybe I'll wait.

1 CHAIRMAN LOCKYER: Are there opponents present?
2 I want to take some opposition testimony and try to focus in.
3 We can hear some more hearts and flowers commentary, but I'd
4 rather focus in on the issues that are controversial.

5 Any other opponents present?

6 MS. DeARMOND: Thank you for allowing me to be
7 here today. My name is Margaret DeArmond, and I'm currently
8 serving at the President of the California Mathematics Council.

9 Before I start my prepared remarks, I would like
10 to clear up something that was said earlier by Mr. Wells. I
11 was under the impression that ACSA did not support the SB action
12 led by Ms. Nicholas. In an open letter to the State Board of
13 Education, in their publication, "Ed Cal", it states that:

14 "On another issue at its last meeting, the Board
15 replaced several names on the Math Framework Committee. While
16 we do recognize that appointment powers to the Committee do
17 reside with the Board, the lack of public notice and the
18 swiftness with which this action was taken causes ACSA and other
19 education community to raise our brows in suspicion. The
20 establishment of the trusted process were not and may not be
21 upheld by the Board."

22 So, I think that has some conflict to what was
23 previously stated.

24 CHAIRMAN LOCKYER: No, I understood him to say
25 the principal issue that they had was the one, and there were
26 others, but they were not worth going into today.

27 Anyhow, you clarified record for ACSA, and I
28 don't think anyone cares.

1 MS. DeARMOND: Okay, if I could continue.

2 CHAIRMAN LOCKYER: Why don't you tell us what you
3 think?

4 MS. DeARMOND: Certainly. As I said, I'm
5 currently serving as President of the California Mathematics
6 Council, an organization that I'm very proud of. We've been in
7 existence for 54 years, have 10,000 members, and are the
8 statewide affiliate of the National Council of Teachers of
9 Mathematics.

10 This is the first time our organization has ever
11 taken a position regarding a Board Member, but I am here today
12 at the request of the Council's Executive Board to urge you to
13 deny the confirmation request of Janet Nicholas to the
14 California State Board of Education.

15 Ms. Nicholas has not acted in good faith in
16 matters related to mathematics education policy, and to the
17 rules and procedures guiding the ethical behavior of a State
18 Board Member.

19 Contrary to portrayals in the media, the current
20 debate about mathematics is not about -- over so-called new-new
21 math versus old-old math, or Republican versus Democrat. It's
22 about what's best for our children.

23 I am a classroom teacher. I've been teaching
24 mathematics to high school students for 27 years. I can tell
25 you very frankly that my students come first. I want them to
26 succeed in mathematics. I've taught mathematics courses based
27 on the guidelines of the 1992 Mathematics Framework, and my
28 students' achievement is improving.

1 Unfortunately, Ms. Nicholas has exhibited
2 mistrust in the value of my expertise and that of other teachers
3 who do not share her viewpoint.

4 Shortly after I began serving on the Board,
5 Ms. Nicholas and I were part of a group which came together last
6 summer to work on the Mathematics Program Advisory. A State
7 Board of Education Member, in my opinion, should be a person who
8 is capable of listening to both sides of an issue. However, I
9 experienced first-hand that Ms. Nicholas does not demonstrate
10 this diplomatic skill.

11 The individuals she brought with her, who have
12 never taught in public schools, lectured to the group of
13 educators on the best way to teach mathematics. My colleagues
14 and I soon realized there was no room for real discussion of
15 issues relating to the Mathematics Program Advisory outside of
16 this lecture.

17 After the Program Advisory meetings, I sent a
18 letter expressing my disappointment in the way the meetings were
19 conducted. I received a call from Ms. Nicholas. She apologized
20 to me, but only two months later, her devisive strategies were
21 replicated in the Mathematics Framework Committee's selection.

22 Ms. Nicholas decided that the recommendations of
23 the Curriculum Commission were inadequate. She abruptly
24 replaced the Framework Committee with 14 selections of her own.
25 She took action with no prior notice to the Curriculum
26 Commission of her intention to undertake such sweeping revision.

27 The fact is, Ms. Nicholas has placed ideology
28 first and the merits of sound educational practice second. In

1 all of her public statements, of which there have been many,
2 Ms. Nicholas asserts that there is a plot among the educational
3 establishment to put the children of California at risk with new
4 approaches to mathematics education. This is simply not true.

5 CHAIRMAN LOCKYER: Where is the evidence of that
6 assertion?

7 MS. DeARMOND: Public statements? I brought some
8 public statement articles that I would pass out that are back
9 there, if you'd like.

10 CHAIRMAN LOCKYER: Yes. It's a serious worry
11 that ideological considerations are superior to practical
12 student achievement. To the extent that there's evidence of it,
13 rather than just the assertion, I'd be interested in seeing it.

14 MS. DeARMOND: Right. I'll get that in a
15 moment.

16 At the following public Board meeting, I
17 presented petitions signed by 3,000 people, including parents
18 and community members, protesting the State Board's action which
19 was orchestrated by Ms. Nicholas. I can't speak for everyone
20 who signed, but I know that I was alarmed by the actions,
21 especially since it's under the guidelines of the Framework that
22 my students have made such notable progress.

23 Surely there's something out of balance here when
24 Ms. Nicholas claims she is only looking for balance by replacing
25 members of the committee with individuals critical of the 1992
26 Mathematics Framework.

27 I'm not here to argue that the Framework is
28 beyond revision, but it is best to examine the educational

1 issues regarding the Framework without imposing prejudice and
2 political agendas, as Ms. Nicholas has done. During the
3 revision process, our students' welfare should be of the highest
4 priority. Classroom teachers want to be able to support the
5 Framework and move forward so that we can serve our students in
6 the best way possible.

7 In summary, by discrediting and discounting
8 teachers, educators, parents, and community members, by
9 subverting the rules to favor her own political agenda,
10 Ms. Nicholas has not demonstrated the kind of objective,
11 inclusive leadership that should characterize a member of the
12 State Board of Education. Rather than creating unity of
13 purpose, she has fostered tension and division, and all the
14 gravity of the consequences for educating all of California's
15 children have brought me here today to respectfully request that
16 you deny her confirmation.

17 Thank you.

18 SENATOR LEWIS: In your testimony, on several
19 occasions you mentioned her ideology and her political agenda.
20 You made reference to that.

21 Would you tell me what that is?

22 MS. DeARMOND: Yes, I think we're talking about a
23 different way of teaching mathematics based on the 1992
24 Framework.

25 There are many instructional strategies called
26 for that were different than what maybe most of us had back in
27 high school or elementary school. We're talking really about
28 the basic skills movement versus ways to teach children using

1 new instructional strategies.

2 I don't know how much detail you want me to go
3 into in the debate over the 1992 Framework.

4 CHAIRMAN LOCKYER: That's what you referred to as
5 ideological.

6 MS. DeARMOND: Yes.

7 SENATOR LEWIS: I was just concerned about your
8 use of certain buzz words that seems to go beyond just a dispute
9 over what might be the proper techniques for teaching a
10 particular course, such as mathematics. It seems to me you were
11 loading up the verbiage a little bit.

12 I was hoping that you might be able to shed some
13 kind of --

14 MS. DeARMOND: I think we have very, very
15 different ideas in this country about mathematics education and
16 what it should be. Very, very different ideas, and we're in
17 conflict there, as came out at the Mathematics Program Advisory
18 meetings.

19 SENATOR LEWIS: Well, you're before a political
20 committee. When you start using terms such as ideology and
21 political agenda, we probably are taking them in a different
22 course than maybe what you meant them.

23 CHAIRMAN LOCKYER: Senator Brulte.

24 SENATOR BRULTE: What's the name of your
25 organization?

26 MS. DeARMOND: California Mathematics Council.

27 I brought a copy of the statement, plus a little
28 hand-out about the organization in case you wanted to see.

1 SENATOR BRULTE: And you've never been before
2 this Legislature to testify on behalf or in opposition of anyone
3 before?

4 MS. DeARMOND: No, not in front of -- no, believe
5 me.

6 SENATOR BRULTE: Given the fact that we're so low
7 in math, I guess it would beg the question why you haven't been
8 here for the last 25 years opposing people who brought us to
9 this place in the first place.

10 MS. DeARMOND: So low in math in achievement
11 scores are we talking about?

12 SENATOR BRULTE: Sure.

13 MS. DeARMOND: You know, our organization, which
14 is total 100 percent volunteer teachers, have never been pushed,
15 have never been this upset about processes that have happened
16 before.

17 Have we been upset about low achievement scores
18 as an organization? Absolutely, and we're teachers back in the
19 classroom, working hard to improve that, and doing things that a
20 professional organization does, like put on three statewide
21 conferences, putting out tons of material for teachers to use in
22 their classrooms. That's what we've always thought our role
23 has been.

24 But, because of the things that have happened in
25 the last year, our Executive Board has felt strongly that we
26 have to take stances that we think are quite political, that,
27 quite honestly, we're uncomfortable doing. We haven't done
28 these things before.

1 SENATOR BRULTE: What's a volunteer teacher? You
2 said you're made up of volunteer teachers. What does that mean?

3 MS. DeARMOND: We are all teacher volunteers
4 working in our organization. I teach five math classes a day at
5 a high school. All of the work that I do with the Math Council,
6 our publications, everyone who puts on a conference -- and we
7 had over 9,000 teachers attending our last three statewide
8 conferences this fall -- every ounce of packets, letters, is
9 done by volunteers.

10 SENATOR BRULTE: But you're all teachers who are
11 paid by public money. You just happen to be a member of a
12 voluntary organization.

13 MS. DeARMOND: Like all subject area professional
14 organizations are.

15 SENATOR BRULTE: Sure, like State Senators that
16 are in committees like this. Just curious. Thanks.

17 CHAIRMAN LOCKYER: In other words, they are, at
18 least in theory, people that know something about the topic.

19 MS. DeARMOND: We think we do.

20 CHAIRMAN LOCKYER: Senator Hughes.

21 SENATOR HUGHES: This is not in reference to the
22 witness. This is something I want Ms. Nicholas to help me
23 with.

24 I'm not one who frequents State Board meetings,
25 so I don't know your structure. And I keep hearing people
26 mention framework, committees, and other things, and the program
27 advisory meetings, curriculum commissions.

28 Explain to me how this works. Perhaps first you

1 can address what she talked about, the Math Framework
2 Commission. Where does that fall in the structure? What do
3 they do? How many members are on it?

4 I don't know, does everyone here know exactly
5 what these commissions do?

6 CHAIRMAN LOCKYER: Only read the materials.

7 SENATOR HUGHES: But even reading it, I don't
8 understand it.

9 MS. NICHOLAS: I have to tell you, I share --
10 when I first got on the Board, I absolutely shared your
11 confusion with where they all fit together. I'll try and be
12 relatively succinct.

13 The frameworks are documents that the Board
14 ultimately adopts, and they're the basis for what publishers and
15 educators throughout the state look at.

16 Our legal constitutional responsibility is to
17 approve textbooks. The way in which we do that refers back to
18 the framework and criteria adopted.

19 In terms of commission, the Board has a number of
20 commissions that are advisory to it. The Curriculum Commission
21 is, I believe, the one that does -- when I say the most work, I
22 don't mean to --

23 SENATOR HUGHES: That's the overall commission,
24 and then there are individual framework committees?

25 MS. NICHOLAS: By subject.

26 SENATOR HUGHES: By subject area, and those
27 committees consist of how many people, and how are they chosen,
28 and by whom?

1 MS. NICHOLAS: They consist of ultimately
2 whatever number of persons the Board chooses. There is no
3 statutory requirement. The limitation is budgetary, typically.

4 The process is, the Curriculum Commission
5 recommends to the -- solicits applications, reviews those
6 applications, and then makes a recommendation to the Board to
7 appoint a number of persons to a particular subject matter
8 committee. The Board --

9 SENATOR HUGHES: And that is agreed by the
10 majority of the Board Members as to the number of people and who
11 is accepted to serve on a commission?

12 MS. NICHOLAS: Yes, Senator.

13 SENATOR HUGHES: Yes, that's what I'm trying to
14 establish.

15 Since we've been talking about the Math Framework
16 Commission, how many persons are on that commission? And
17 they're chosen by the majority. How many people were on that
18 commission?

19 MS. NICHOLAS: Initially, in the comments that I
20 think you've just heard, that was a 19-member committee that was
21 established. Since that particular time, which was in November,
22 as of today, just to be accurate, there are 21 members to that
23 committee.

24 SENATOR HUGHES: At the time in this past
25 November, you were already on the Board?

26 MS. NICHOLAS: Yes.

27 SENATOR HUGHES: Has that changed? Has the
28 make-up of that commission changed since you've been a Member of

1 the Board?

2 MS. NICHOLAS: I think I have to just go back one
3 step and say that these framework committees are very
4 short-lived committees. So, when I was first appointed to the
5 Board, there was no Mathematics Framework Committee.

6 CHAIRMAN LOCKYER: But there were 15 appointed,
7 and you removed 10?

8 MS. NICHOLAS: There were 15 recommended to be
9 appointed.

10 CHAIRMAN LOCKYER: By the Curriculum Commission.
11 You removed 10 of the 15, 5 stayed. Subsequently, after those
12 10 went on, it was again expanded and you have the current
13 number.

14 MS. NICHOLAS: Right.

15 SENATOR HUGHES: And you replaced some of them.
16 You added some others to the 10 who were on?

17 MS. NICHOLAS: Yes. I don't know how much
18 detail --

19 SENATOR HUGHES: The reason I'm asking these
20 questions --

21 CHAIRMAN LOCKYER: There were 15. She took 10 of
22 the 15 off the recommended list and added an additional 10.

23 MS. NICHOLAS: Yes.

24 SENATOR HUGHES: The reason I'm asking is because
25 one of the letters, the negative letters that I received, talked
26 about the addition and subtraction of members. That's the
27 reason I'm going into this.

28 CHAIRMAN LOCKYER: It's new-new math. It's

1 complicated math.

2 [Laughter.]

3 SENATOR HUGHES: I'm glad you brought that up
4 because that's in next question I was going to ask.

5 Define for me, I knew what new math of the '60s
6 was. Tell me what new-new math is.

7 MS. NICHOLAS: Is that addressed to me?

8 SENATOR HUGHES: Yes, anybody who can answer it.
9 You and the lady sitting next to you, either one of you. You
10 have to educate us.

11 MS. NICHOLAS: I just have to say, stepping back
12 a moment, one of the maybe difficulties I've found working in
13 the educational community is that many times people of good will
14 seem to be talking past each other rather than with each other.
15 So, I try not to use terms like new-new math, or old-old math,
16 or drill-and-kill versus don't-drill-and-kill, because I don't
17 think it's useful for the public debate.

18 I think the discussion that was brought forward,
19 which I respect, and I think needs, perhaps not in this room,
20 but needs to have a full public airing in other rooms, is that
21 people are very committed to particular views about how math
22 should be taught. I can understand that and respect it. I
23 think that is an important part of our public process.

24 But I'm afraid I would do a disservice to utilize
25 that particular terminology.

26 CHAIRMAN LOCKYER: Why did you remove these ten?

27 MS. NICHOLAS: May I take one second and
28 definitely answer your question, but just pass around to the

1 Committee, if I might.

2 Senator, what I put before you was, hopefully,
3 with all these commissions and committees, put it to paper to
4 try and make some sense.

5 When I approached the Mathematics Committee
6 formation, the Board's responsibility to appoint, I have to tell
7 you I did not approach that in a vacuum. I don't have an
8 educational background. It's not my field of study nor my field
9 of employment, so I had to kind of run fast to get up to speed.

10 And I need to tell you the background in which I
11 function. It's highlighted in the papers I've just handed to
12 you, which I won't read, I promise you.

13 There's some tabs there to tell you that as I
14 approached math, I was well aware, as I think most people in
15 California were, that we had some significant problems emerging
16 and existing in the students' study of mathematics. I was aware
17 that what's typically referred to as the '92 Framework, which is
18 used to evaluate textbooks and institutional material, told
19 publishers to decrease their attention to things like
20 memorization of algorithms. It told them ordering of numbers
21 and writing of numbers was something that should be decreased in
22 importance, and written practice was a decrease.

23 I was aware of the NAEP scores, National
24 Educational Progress scores, in '93, which showed we had major
25 problems; 54 percent of our fourth graders had not reached the
26 basic level of mathematic competency for fourth graders. Over
27 half of CSU entering freshmen couldn't pass their math test at
28 entrance.

1 The Board, in its previous adoption of
2 mathematics textbooks, had to add three books which weren't
3 recommended by its own Curriculum Commission because there was
4 an outcry that there were no basic skills in those materials
5 brought forward. And between the period of roughly '94 and
6 1997, parents throughout the state were becoming increasingly
7 alarmed.

8 I've given you some tabs just to highlight those
9 kinds of things.

10 CHAIRMAN LOCKYER: You have a column from Dan
11 Walters as evidence in your support.

12 MS. NICHOLAS: Xeroxed illegally, I
13 apologize.

14 CHAIRMAN LOCKYER: Dan, if you want to testify
15 later, we'll call you forward.

16 [Laughter.]

17 MS. NICHOLAS: Just prior to my -- and I'm
18 skipping around -- but just prior to my joining the Board, the
19 Board President, Yvonne Larsen, and our Superintendent, Delaine
20 Eastin, issued a joint letter to every school district in this
21 state, acknowledging that there were problems with existing
22 mathematical frameworks and stressing the need for a complete
23 math curricula. And they were quite specific in mentioning your
24 ABC bills, the Superintendent's Mathematics Task Force Report,
25 and encouraged districts to give this their highest priority and
26 immediate attention.

27 CHAIRMAN LOCKYER: Pardon me, Ms. Nicholas. I
28 notice you have Debra Saunders' commentary, and other such

1 people, who are, by the way, highly ideological, which gives me
2 some reason to worry a little about what you think is credible
3 evidence in support of your confirmation, but you don't have
4 copies, for example, of the ABC bills.

5 Do you happen to have those with you?

6 MS. NICHOLAS: I don't have them with me, but I
7 can get them in my car, actually. I have a briefcase there.

8 CHAIRMAN LOCKYER: I don't know if there's
9 someone present that would be able.

10 One of the claims, at least, is that the ABC
11 bills were the premise for the Board's activities. I think it
12 might be constructive to have us review the legislation that we
13 adopted. I would think that would be relevant to our purposes.
14 It looks like maybe someone is going to help get us those.

15 Go ahead.

16 MS. NICHOLAS: Thank you.

17 To your specific question, that was in fact the
18 background at the time that I joined the Board. At our first
19 Board meeting, my first Board meeting, the Board revised the
20 criteria by which mathematics books are approved, and we added
21 basic skills, conceptual understanding, and problem solving.

22 I'll try not to get into too much detail. I
23 realize this is not a hearing about mathematics.

24 CHAIRMAN LOCKYER: It winds up being to some
25 extent. One of our problems is, we don't have, I don't think,
26 any relevant expertise. I think we can kind of hopefully listen
27 to the arguments and assess credibility, and balance,
28 competence. But with the exception of Senator Karnette, who at

1 least was once a math teacher --

2 SENATOR KARNETTE: Just last October.

3 CHAIRMAN LOCKYER: -- but we need to understand
4 it, I think, at least to get the idea that Ms. DeArmond as well
5 as yourself --

6 MS. NICHOLAS: In terms of moving forward,
7 hopefully, rapidly by me, in terms of looking at that Framework
8 Committee, my compelling question was, fundamentally, how did
9 the problems that seem to exist with lots of red flags all over
10 in mathematics come about when so many truly fine and dedicated
11 people were working so hard for the good of the children?

12 And asking myself that question, I had to say
13 that probably, at least my conclusion was, that somewhere along
14 the line at various points in the process, different parties
15 assumed someone else was looking after the situation or the
16 show, so to speak. So, I kind of woke up and said, you know, if
17 I'm to take this responsibility seriously, I'd better not make
18 those same kinds of assumptions, because I sure don't want to do
19 any harm to California kids.

20 At that point, I looked at -- asked a number of
21 questions, and I won't integrate them into the record, that are
22 documented here by date. Asked numbers of questions at Board
23 meetings, phone calls with California Department of Education
24 staff. I had been appointed by a board to work with the
25 Superintendent and her staff to develop something called a Math
26 Advisory, which we had done.

27 The Board, in public session, established its
28 guiding priorities in mathematics at that time, which were

1 really three-fold, if you will. Number one, certainly very
2 respectfull and cognizant of the legislation that had passed
3 that was typically are called the ABC bills.

4 Number two, the Superintendent's Mathematics Task
5 Force published a report which was very clear, very well
6 written, called, "Success for All." The Superintendent's Task
7 Force made a series of recommendations, and then the Board
8 unanimously adopted, as did the -- well, I guess I shouldn't say
9 the Superintendent adopted -- but the Superintendent concurred,
10 and the California Teacher Credential Commission all concurred,
11 spoke with one voice and published a mathematics advisory to
12 every school district in the state.

13 I used those criteria contained in those
14 documents and said, does this committee reflect those
15 recommendations? And the conclusion I had to draw was that
16 there were many wonderful people, fine people recommended for
17 appointment, but it was not reflective of those critical points.

18 CHAIRMAN LOCKYER: How do you know? How could
19 you tell? The ten that you thought created the wrong kind of
20 composition, what was the evidence of their bias or tilt?

21 MS. NICHOLAS: I have to back-step one second and
22 tell you, in establishing those committees, the Title V
23 regulations, which I learned about fairly recently just before
24 that, require balance within a committee in terms of geography,
25 of types of school districts, various other factors. So, it
26 really becomes a matrix problem.

27 CHAIRMAN LOCKYER: Tell me about it.

28 MS. NICHOLAS: I can see you understand fully,

1 Senator.

2 CHAIRMAN LOCKYER: But you mean those changes
3 were necessitated by those kinds of considerations?

4 MS. NICHOLAS: Yes.

5 CHAIRMAN LOCKYER: Not by ones dealing with the
6 subject matter so much as geography and other such matters?

7 MS. NICHOLAS: My original thought was to add
8 on. There were certain deficiencies which were real glaring,
9 not in the people, but in the recommendation.

10 CHAIRMAN LOCKYER: What were they?

11 MS. NICHOLAS: There was no locally elected
12 school board member represented in this group. I think we all
13 recognize, if we want to institute change within schools, we
14 need school leadership.

15 CHAIRMAN LOCKYER: As a former school board
16 member, I appreciate that.

17 MS. NICHOLAS: Good.

18 Also, there were parents' groups, community
19 organizations with expertise in mathematics; none of them were
20 represented. So, those were deficiencies.

21 Initially, I thought it would be a real easy
22 process; I'd just look through, add on.

23 What I did when I added on was make the teachers
24 a minority of the total group, which would have been in
25 violation of regulation. So then, I realized I had to read all
26 94 applications, try and do what you apparently do quite easily,
27 in making everything balance.

28 CHAIRMAN LOCKYER: No, it's not easy. It's hard.

1 Senator Ayala.

2 SENATOR AYALA: Ms. DeArmond, the California
3 Mathematics Council has been in existence for 54 years?

4 MS. DeARMOND: That's right.

5 SENATOR AYALA: Put you back to 1943, in the
6 middle of World War II.

7 MS. DeARMOND: Even before I was born.

8 SENATOR AYALA: It seems to me that we've been
9 going down hill since then in terms of the total curriculum in
10 our schools. We've improved some, of course, not a total
11 loss.

12 Now, this other organization, Mathematics
13 Framework Committee has been in existence six years, since 1991;
14 is that correct? Your organization, the Framework, 1991?

15 MS. NICHOLAS: The last Framework was adopted by
16 the State Board in November of 1991, yes, sir.

17 SENATOR AYALA: I read some of the publications.
18 We all know now that our fourth graders scored the fourth worst
19 in the United States in mathematics. And California is down at
20 the lower one-third for 8th graders in math.

21 We must be doing something wrong.

22 MS. DeARMOND: I agree. May I comment?

23 SENATOR AYALA: Aren't these people trying to
24 help out? You know, we tried that long enough. It seems to me
25 that we're drowning in this curriculum, that these people are
26 throwing you a life-saver, trying to bail you out, and you're
27 resisting that.

28 You had it 54 years, and you haven't done all

1 that well, have you?

2 MS. DeARMOND: If I could clarify, our
3 organization has existed 54 years. We have 20,000 members.
4 There's 120,000 teachers of mathematics in California. They
5 don't all choose to pay the fee to join our organization, so I
6 don't think we're solely responsible for test scores.

7 SENATOR AYALA: I'm not blaming your
8 organization, but you've had an opportunity for the last 50-some
9 years, and obviously, you haven't made much of an inroad because
10 you're losing ground. In fact, I want to read here where it
11 says, again, fourth graders, the worst score in the U.S. in
12 1992, and that we're really, nationwide it's getting worse.

13 So, it seems to me that we have to do something
14 to change the existing current, and it seems like you're
15 resisting that.

16 MS. DeARMOND: Could I address that, because I
17 think it's such a crucial --

18 CHAIRMAN LOCKYER: Why don't you talk about what
19 you would think are the causes for the decline, and things
20 happening to address those.

21 MS. DeARMOND: Would it be possible to say
22 something about the decline first.

23 CHAIRMAN LOCKYER: Yes.

24 MS. DeARMOND: The NAEP scores, National
25 Assessment of Educational Progress, have been given for a long
26 time. There's a substudy that wasn't reported recently,
27 although the data has been released, which is called the NAEP
28 Trends Assessment, where they've taken basic skills out of the

1 NAEP test, because the NAEP test is more than basic skills. It
2 also has critical thinking questions on it. But they took the
3 basic skills questions, and for over two decades, have looked at
4 how students in the United States have scored on those.

5 And the reality is, on that data, that the scores
6 in the basic skills have gone up, not a lot, not enough.

7 CHAIRMAN LOCKYER: Gone up where? In California
8 or nationally?

9 MS. DeARMOND: It's national, so that's a
10 national piece of data.

11 Now, the California data, the comparison I think
12 you're referring to that came out recently, showed that we're
13 not scoring as well compared to other states, true. But it did
14 not show decreases in the basic skills scores significantly.

15 CHAIRMAN LOCKYER: You mean the others increased
16 more?

17 MS. DeARMOND: The others increased more, and
18 some of the analysis of that, it said the states where the
19 scores have increased more, are states that have standards, have
20 a statewide focus. And I'm so proud that California's looking
21 at standards now also.

22 SENATOR BRULTE: Is this something we should be
23 happy about, that we're not declining quicker?

24 MS. DeARMOND: No, no. Please believe me.

25 CHAIRMAN LOCKYER: We're not increasing faster.

26 MS. DeARMOND: Yes, but what I think the point is
27 about not declining, if math reforms, if the things that tend to
28 get blamed for scores going down were really in place, wouldn't

1 we think those scores would have plummeted instead of just sort
2 of stayed the same or made slight increases? Maybe it's what
3 we've been doing in the past that we haven't changed enough is
4 the reason our scores haven't gone up.

5 SENATOR BRULTE: Is that an argument in favor or
6 against the confirmation of Ms. Nicholas? It seems to me you're
7 here arguing that we're changing something, and there's
8 something fundamentally wrong with that.

9 MS. DeARMOND: No, I think I'm trying to clarify
10 that.

11 First of all, I was going to just try to clarify
12 about the test scores and that interpretation. If I could just
13 finish that.

14 The TIMS Study, Third International Math Science
15 Study that's come out recently has been very clear to show that
16 nationally, and California's part of that, that math reform has
17 not substantially happened. It's not in place. It's not
18 systemic. It hasn't happened enough.

19 It shows that teachers know about it, but they
20 haven't done anything about it systematically. Whereas, Japan
21 has instituted more of the reforms called for by National
22 Council of Teachers of Mathematics than the United States has.

23 I think we need to take long, hard look at that
24 study and what it says.

25 CHAIRMAN LOCKYER: You wouldn't know it by
26 spending any time there. It's an ant hill.

27 SENATOR BRULTE: I can interpret that, if you'd
28 like.

1 CHAIRMAN LOCKYER: They're pretty good at
2 memorization, not critical thinking.

3 MS. DeARMOND: In Japan.

4 CHAIRMAN LOCKYER: Yes.

5 MS. DeARMOND: The TIMS Study really addresses
6 that in a different way, and it's not just a study of
7 achievement scores, but what the curriculum, the frameworks, and
8 the textbooks, and video tapes of what's happening in
9 classrooms. I was very surprised by the outcome of that study.
10 I had a different impression myself.

11 Then considering speaking about Ms. Nicholas, I
12 can't speak for the entire Math Council. I want to speak for a
13 lot of people who have called me, and my personal view also,
14 about what's happened in this Framework Committee selection.

15 We feel strongly that the ten people who were
16 removed were good people. That the 14 people that were added,
17 many of them have openly spoken against math reform in public
18 hearings.

19 SENATOR BRULTE: Is that a disqualification?

20 MS. DeARMOND: No, as long as we have a lot of
21 balance, it's not a disqualification.

22 CHAIRMAN LOCKYER: Is the 10-11 vote a sign for
23 selecting the chair, a sign that it's balanced?

24 I don't know who were the 10 and who were the
25 11, but it suggests something was happening there that's a
26 pretty close call.

27 MS. DeARMOND: Yeah, I would say that it shows
28 that maybe we've got two sides operating here: 10 who want one

1 and 11 who want another.

2 I know we have some people with definite division
3 on how they view things on this Framework Committee. I've had
4 phone calls about what's happened at the first two meetings that
5 they've had.

6 CHAIRMAN LOCKYER: And what have you been told?

7 MS. DeARMOND: I've been told that people are
8 lined up about how they feel about math reform, for or against.

9 My point, back to the test scores, though, in
10 eliminating -- in blaming mathematics reform for test scores, I
11 think, is totally unjust since it's not in place.

12 I think what we have to look at is past practice,
13 what's been happening for decades in California's education
14 system. We've never really reformed anything. Most of our
15 schools are teaching the way that we have in the past.

16 There are certainly new textbooks out there that
17 have hit schools in the last year or so, but that's not enough
18 time to do an evaluation.

19 CHAIRMAN LOCKYER: What was fashionable in the
20 '50s and '60s?

21 MS. DeARMOND: What was fashionable? I think I
22 could describe probably --

23 CHAIRMAN LOCKYER: Was that mostly a
24 computational emphasis when I was doing it?

25 MS. DeARMOND: Yes, but I think the modes of
26 instruction were also what was there.

27 CHAIRMAN LOCKYER: I had the gym teacher that had
28 a math class.

[Laughter.]

CHAIRMAN LOCKYER: And he had very little interest in math, and absolutely no capacity to inspire students into finding out what I had to find later in life, that this is an incredible almost art form in math. And for purposes of people who are potentially captured by cognitive skills that are very challenging and a system that's beautiful, it's extraordinary.

MS. DeARMOND: Yes, I'm in love with it myself.

CHAIRMAN LOCKYER: I never heard that. I heard memorize some Euclidean axiom, or whatever, that was like boring and turned us all off.

What's the old and what's the new?

MS. DeARMOND: It's still happening today. In fact, you might be familiar with the CTC legislation that is being promoted in looking at ways to get more teachers into the high schools everywhere, teachers of math backgrounds.

CHAIRMAN LOCKYER: That have math competency?

MS. DeARMOND: Yes.

So, what you referred to about who's teaching math is still a great concern. Many people are not math majors, especially in high schools.

Secondly, I think if you walked into classes, and it's verified by the video tapes and the TIMS Study, that the majority of the classes today are still: take out your book; here are the answers; any questions; let's go over the next section; here's the rules; let's practice 1 to 39 odd; you don't get it, you get to do the evens. It's still solely direct

1 instruction.

2 CHAIRMAN LOCKYER: As a general matter, teachers
3 teach the way they were taught, and parents parent the way they
4 were parented.

5 MS. DeARMOND: Absolutely, and it takes a
6 tremendous amount of professional development and change in the
7 colleges' pre-service programs to get things to be done
8 differently in the right way, not -- we have a lot of new
9 materials out there.

10 CHAIRMAN LOCKYER: You're saying we never did
11 change, basically.

12 MS. DeARMOND: I'm saying that.

13 CHAIRMAN LOCKYER: Senator Ayala, did you want to
14 follow-up on that?

15 SENATOR AYALA: I just want to close the
16 discussion that I started.

17 You have been in existence for some 54 years,
18 during World War II, as I mentioned, and all the time that those
19 skills have been deteriorating for our students statewide and
20 nationwide, one of the lowest grades in the country.

21 This other organization is six years old.
22 They're trying to change what you have been doing for 54 years,
23 and you are resisting that.

24 MS. DeARMOND: The other organization, I don't
25 know -- the 1992 Framework had a Framework Committee that
26 started their work in 1989. It took them several years to
27 produce the 1992 Framework.

28 That framework boldly called for changes. It

1 called for changes in instructional strategy. It called for a
2 beefed-up content. Not just basic skills, but that framework
3 called for teaching all the strands of mathematics, most
4 importantly, probability, statistics, and mathematical
5 reasoning. Our frameworks before that didn't do that. The '92
6 Framework called for that.

7 Now, it's taken -- it's not implemented. It's
8 not in place yet. We have studies that show that.

9 Now we have a new Framework Committee. They've
10 only met twice. So, I'm not sure what you mean by a group
11 that's existed for six years.

12 SENATOR AYALA: They're trying to change the
13 status quo as it pertains to mathematics. You don't like that
14 to happen, as if your methods have been successful.

15 I'm not blaming it all on your organization. It's
16 a composite of many things to get where we are today.

17 But we're not doing too well nationwide. It
18 seems to me we ought to be trying new ideas, new avenues, new
19 innovations.

20 MS. DeARMOND: I agree.

21 SENATOR AYALA: It seems to me this group is
22 trying to do that.

23 MS. DeARMOND: No, I think that's where we
24 disagree.

25 I think that the 1992 Framework called for new
26 ideas, certainly still called for the teaching of basic skills,
27 absolutely, but called for these other things.

28 Now, because of the formation of the new

1 Framework that's met twice now, that Framework Committee has
2 many people on it who --

3 SENATOR AYALA: What year was that?

4 MS. DeARMOND: The 1992 Framework.

5 SENATOR AYALA: In '92. Let's see what it says
6 here about 1992. It says that despite signs of national
7 improvement since 1992, the math skills of California fourth
8 graders have failed to keep pace.

9 MS. DeARMOND: Yeah, okay. That's the NAEP
10 Report, the NAEP Study.

11 CHAIRMAN LOCKYER: Janet, do you ever want to get
12 a word in edgewise? You're a good listener so far.

13 Go ahead, Ms. DeArmond. It's the study you were
14 talking about.

15 It would seem to me there probably were different
16 people taking the test in 1948 than in 1996.

17 MS. DeARMOND: Yes.

18 [Laughter.]

19 CHAIRMAN LOCKYER: I mean different people in
20 terms of --

21 SENATOR BRULTE: This is why he's the Pro Tem.

22 [Laughter.]

23 CHAIRMAN LOCKYER: I mean the demographics are
24 different, the number of all public school kids is probably a
25 different pool.

26 MS. DeARMOND: The make-up of California.

27 CHAIRMAN LOCKYER: California is different. I
28 mean, the public school system is.

1 It just would strike me that -- I don't know --
2 you haven't talked about these things.

3 SENATOR BRULTE: Maybe I can bore in on it.

4 First of all, Ms. Nicholas, did you unilaterally
5 make these changes, or did the Board make the changes?

6 The Board is empowered to make appointments. You
7 didn't do this on your own?

8 MS. NICHOLAS: I did not.

9 SENATOR BRULTE: You just made some
10 recommendations that the Board agreed with?

11 MS. NICHOLAS: I made recommendations to the
12 Board in a public meeting. Those recommendations were
13 discussed. There was one alteration made by the Board, and then
14 they were approved.

15 SENATOR BRULTE: Second --

16 CHAIRMAN LOCKYER: On this point.

17 If there's anything that I found objectionable so
18 far, it's the process whereby you went about that. It
19 disrespected a lot of people who are interested and have the
20 expertise, and I think, to some extent, your Board Members and
21 the Superintendent, by springing it on them in that manner
22 without adequate public knowledge and public notice and
23 discussion.

24 I don't know if you'd care to defend that or
25 explain it.

26 MS. NICHOLAS: Could I make a comment.

27 I recognize in retrospect that not only in terms
28 of items you mentioned, but also there were a number of hurt

1 feelings of people who thought they -- on just a personal
2 level -- who thought they were going to be appointed to a
3 committee.

4 CHAIRMAN LOCKYER: True.

5 MS. NICHOLAS: They apparently, unbeknownst to
6 me, when they read their name on a list or phoned up the
7 Department and thought, that's over, even before it had gone to
8 the Board.

9 CHAIRMAN LOCKYER: Probably in the past, it meant
10 it was over.

11 MS. NICHOLAS: I believe that there was minimum
12 review by the Board in the past.

13 And I, like I think most people, really had no
14 intention of hurting other people's feelings, making them feel
15 bad individually.

16 I think that in retrospect, I clearly could have
17 done it a far better way. Hindsight is always 20-20.

18 CHAIRMAN LOCKYER: You mean a little more prior
19 knowledge or something?

20 MS. NICHOLAS: I would have done a number of
21 procedural moves very, very differently.

22 CHAIRMAN LOCKYER: What would those have been?

23 MS. NICHOLAS: Number one, I would have called
24 and made sure that the Superintendent was in attendance during
25 that particular meeting. It was -- she typically sits with us
26 on Friday.

27 CHAIRMAN LOCKYER: You didn't know she wasn't
28 going to be there?

1 MS. NICHOLAS: I did not know. I did not know
2 that this would be a surprise to her. She and I had that
3 conversation subsequently, and I think that there's a better
4 understanding now.

5 CHAIRMAN LOCKYER: What else?

6 MS. NICHOLAS: Number two, in terms of procedural
7 moves, knowing what I now know about this fairly intricate
8 system, I would have been more -- this may sound really quiet
9 odd -- more direct in my comments in public session, because I
10 understood precisely what I was saying. They were recorded in
11 minutes, but I can clearly understand how people can sit through
12 a meeting and have a variety of opinions of what transpired.

13 CHAIRMAN LOCKYER: We certainly understand that
14 problem.

15 MS. NICHOLAS: I suffered quite a bit.

16 So, there are a number of procedural steps I
17 would, in retrospect, have started the day I was appointed, and
18 said, what are issues I need to be concerned about, and let me
19 sit and visit with all players involved. That didn't happen.

20 CHAIRMAN LOCKYER: I would only recommend,
21 understanding that these commissions like this at the Ed. Board,
22 think of it anthropologically. It's like a little village.
23 It's sort of working together makes the village work, rather
24 than having one --

25 SENATOR BRULTE: Before Senator Lockyer wins a
26 Grammy --

27 [Laughter.]

28 SENATOR BRULTE: I just want to ask the witness

1 two or three more questions.

2 Does your organization blame Ms. Nicholas for the
3 reading scores of school kids in California right now? Do you
4 think the fact that we're low is a reflection of anything she
5 has done.

6 That's a yes or a no.

7 MS. DeARMOND: No.

8 SENATOR BRULTE: I won't even ask a further
9 question.

10 CHAIRMAN LOCKYER: Did you have anything else to
11 add? There's documentation about ideological stuff in the
12 things you distributed. I assume your philosophy is with
13 respect to the emphasis on traditional computational
14 skills?

15 MS. DeARMOND: That's right, uh-huh.

16 If I could, one of greatest concerns from the
17 calls I received as President of the Mathematics Council was
18 from primary teachers. Because changes happen, I know it's
19 difficult to get balance, but when we saw the elimination of
20 primary teachers from the Framework Committee, it pushed the hot
21 button from teachers all over the state who were greatly
22 concerned. They were very pleased with the Board's primary
23 teachers' background and expertise; they were well respected.

24 The Mathematical Department Chair at UC Berkeley
25 Math Department was taken off. We were very pleased that he was
26 put back on, as he is a very balanced person in his views and
27 very respected by the mathematics community.

28 I really appreciate the time to be able to give

1 this point of view.

2 CHAIRMAN LOCKYER: Is there other opposition
3 present?

4 Professor Alder, do you want to pop in here since
5 we're on the math issue?

6 There are others that want to comment. I'm
7 trying to use our time appropriately. We're not a local city
8 council. We've got to figure out how to focus on the issues
9 that are relevant.

10 PROFESSOR ALDER: Mr. Chairman, I have a very
11 brief statement.

12 Members of the Rules Committee, my name is Henry
13 Alder. I am a member of the Mathematics Department at the
14 University of California at Davis, and recent National President
15 of the Mathematical Association of America.

16 I am here, however, as a former member of the
17 California State Board of Education, to which I was appointed by
18 Governor Jerry Brown.

19 I've closely followed the Board's action on
20 mathematics this past year, and in particular, appointments to
21 the Framework Committee. When I saw the slate recommended for
22 appointment to this committee, I could not believe my eyes.
23 Many of the obvious constituent leadership that should be
24 represented on such a committee were not represented at all.
25 There was no one on that slate who was a school board member;
26 there was no one from any parents organization in the state. No
27 one from any mathematics department of the California State
28 University system which, as you know, trains most of the

1 teachers this state. I could go on and on.

2 With only one exception, all of the recommended
3 members had one thing in common. They were involved in the
4 preparation of and were strong supporters of the 1992 California
5 Mathematics Framework, the very same framework which the
6 committee has been asked to revise, since it had been met with
7 so much concern by so many involved and interested
8 constituencies.

9 As a former member of the State Board of
10 Education, I can say without hesitation that no State Board of
11 Education worthy of its name could be expected to approve such a
12 flawed set of recommendations.

13 Janet Nicholas was the first person on the Board
14 to recognize this so clearly and deserves the highest credit,
15 not only from the Board, but from the entire state. She has
16 earned our deepest gratitude for taking a tremendous amount of
17 time to read all the applications, to decide to make
18 recommendations to the Board on the membership of the Framework
19 Committee, and then recommending a set of candidates with a
20 proper balance with respect to viewpoints, backgrounds,
21 expertise, geography, ethnic background, gender, and other
22 criteria, at the same time, leaning over backwards to retain as
23 many members of the Curriculum Commission's recommended
24 candidates as possible.

25 For this she also deserves the gratitude of all
26 children now entering California's public schools who, as a
27 result of her efforts, will have the best K-12 education
28 possible.

1 Your Committee has the opportunity to show strong
2 support for her efforts by unanimously confirming her. Not to
3 confirm this exceptionally intelligent and objective,
4 knowledgeable person would be nothing short of a major calamity
5 for California, and would cause a tremendous backlash. It would
6 be interpreted as a political action clearly in contradiction to
7 what the President of the United States, in his State of the
8 Union Address last month, stated so eloquently, and I quote:
9 "Because education is one of the critical security issues for
10 our future, politics must stop at the classroom door," end of
11 quotation.

12 Thank you very much.

13 CHAIRMAN LOCKYER: Professor, have you had a
14 chance to see and evaluate at all a curriculum called Math Land?

15 PROFESSOR ALDER: No.

16 CHAIRMAN LOCKYER: Thank you, sir.

17 Any questions? Senator Karnette.

18 SENATOR KARNETTE: I just wanted to ask one
19 thing. You were talking about elementary teachers. There were
20 no elementary teachers.

21 Do you think it was set up correctly without
22 elementary teachers?

23 PROFESSOR ALDER: There are five elementary
24 teachers now.

25 SENATOR KARNETTE: I thought originally there
26 weren't, though.

27 MS. NICHOLAS: There were elementary teachers
28 originally.

1 My work was done, and I'm sure the panel isn't
2 quite so interested, done from a computer printout, where
3 someone had inputted for a couple of elementary teachers.
4 Rather than inputting the grades they taught, they inputted the
5 age of the children. So, those people were restored.

6 I'm happy to go into this level of detail, but
7 I'm just not sure you all want me to.

8 PROFESSOR ALDER: So there are five elementary
9 teachers.

10 MS. NICHOLAS: Yes, there are elementary
11 teachers.

12 SENATOR KARNETTE: There are elementary teachers?

13 MS. NICHOLAS: There were prior to the Board
14 adding them. We now have more elementary teachers, which I
15 think is wonderful.

16 SENATOR HUGHES: Were there teacher trainers from
17 the State University who help people to get their teaching
18 credentials as members of this group?

19 MS. NICHOLAS: Originally as it was proposed to
20 the Board from the Curriculum Commission, there were not the CSU
21 system professors. When the Board approved it, there were.

22 SENATOR HUGHES: I want to commend you on that,
23 because I heard someone talk about something that the commission
24 did, Teacher Training Commission. They're not the ones that
25 train the teachers. They only approve the policies. But it's
26 the State University system that trains the teachers, just as
27 it's the elementary and junior high school and high school
28 teachers that teach the children, not the University professors,

1 not the chairs of the Math Departments or other places like
2 that.

3 So, let's get everything in perspective. And
4 also, it's those parents that you put on that commission that
5 are very, very important, because they're the homework helpers
6 once they get home.

7 PROFESSOR ALDER: You're absolutely correct.

8 SENATOR KARNETTE: I have a couple questions,
9 Janet. Thank you for coming by to see me. I appreciated that.

10 I want to commend you on being willing to go
11 through all this. I admire you.

12 I'm here because I really care about students
13 learning mathematics. Being a middle school math teacher, I'm
14 really concerned. I know they have to be motivated.

15 I have two questions. I think we can probably
16 all agree that society really needs more math knowledge than it
17 now has.

18 And I think we can also agree, with all due
19 respect, Senator Ayala, that we need more than we than we even
20 had when you and I went to school. I think we really do. I
21 think it's obvious that mathematics is very, very
22 important.

23 CHAIRMAN LOCKYER: Especially Chaos Theory.

24 SENATOR KARNETTE: Absolutely. That makes good
25 movies.

26 But the question I have is, I have two questions.
27 How do you think the curriculum and teaching methods should be
28 changed in order to improve mathematics, and who should change

1 them? I don't mean specifically, but your philosophy of
2 education, I think, will come in here.

3 How should the curriculum and the teaching
4 methods be changed, in a general kind of way?

5 I'm a member of the California Math Council
6 myself.

7 MS. NICHOLAS: Thank you, Senator. I'll try and
8 speak to the points. And I won't just limit it to math, if I
9 may.

10 I am not a mathematician nor an educator, so I
11 can't approach things from those perspectives. My background is
12 really doing non-educational research. As an economist, that's
13 precisely what I did, and make recommendations to businesses on
14 how to invest or not invest.

15 So, my bias, if there is one, is that we have to
16 move an educational system from a mode of thinking -- I'm not
17 speaking of the children; I'm speaking of the decision makers,
18 the leadership, prior to making decisions -- to look at and take
19 in all the best available research, analyze it, have public
20 discussions, debates, absorb it, and try and reach some rational
21 conclusions that are research based, whether it's mathematics,
22 or chemistry, or some other subject matter that may be. That
23 would be my methodological approach.

24 The second thing about method of teaching, and
25 how do you change it.

26 SENATOR KARNETTE: I asked by whom. I wouldn't
27 expect you to know all that.

28 MS. NICHOLAS: Good.

1 By whom, it's an awkward system. My take on it
2 now is that the leadership at a state level -- the Board, the
3 Superintendent -- locally elected school board, locally elected
4 administrators, and teachers, really have a leadership role in
5 making sure not that we become, as someone once said to me, the
6 Math Police, and go around and check how mathematics is the
7 taught in various classrooms, but the teachers are really tired,
8 at least the ones who have spoken to me, of pendulum swings, of
9 having an amorphous thought come from -- they usually blame it
10 on Sacramento.

11 CHAIRMAN LOCKYER: Is this a new pendulum swing
12 that you're sponsoring?

13 MS. NICHOLAS: Exactly not.

14 What I think that most people are trying to do is
15 say, let's give teachers and local districts the information
16 that they can look at, use, and absorb, and analyze their own
17 district's situation, and find out what works best for the kids.

18 SENATOR KARNETTE: Based on some standards? Are
19 you saying we should have standards?

20 MS. NICHOLAS: Personally, I strongly believe in
21 standards. They're critical to accountability.

22 But I'm kind of jumping all over the place. I
23 apologize to all of you.

24 SENATOR KARNETTE: Then I guess my other
25 question, when we talked, you said you had certain goals as
26 Member of the Board of Education.

27 And as an aside, I read an article in the
28 Chronicle, San Francisco Chronicle, that said reading had a lot

1 to do with the low scores, which I think goes along with all the
2 discussion we heard here. If we improve reading, I bet you
3 math scores go up.

4 But the goals, can you outline kind of your
5 philosophy, maybe that's what you've been doing, behind meeting
6 the goals? I'd like to know in general what your goals are,
7 and how you see we should go about meeting them.

8 If you feel like you've told me, maybe you can
9 simplify it a little.

10 MS. NICHOLAS: I'll try my best, Senator.

11 I think my goals are precisely what all of your
12 goals are, that every single child in this state goes as far as
13 he can or she can academically, and that we provide every kid
14 with the tools that they'll need today, tomorrow, and the next
15 day.

16 SENATOR KARNETTE: But they have to have
17 standards, right? I mean, we'll have to know somehow whether
18 they've met them.

19 MS. NICHOLAS: Absolutely, but you asked, I
20 thought, about the goals. Those would be my goals.

21 I come from maybe a perspective where I've met
22 lots of kids. Typically you would call them -- or in Sacramento
23 they would be called kids at risk, or kids in juvenile
24 facilities, who -- because I have to chime in on your reading --
25 I have never seen a population that cannot read more than that
26 population.

27 I have to tell you, these are non-drop outs.
28 One of my dominate motivations originally, agreeing that the

1 State Board of Education was some place I would like to be, was
2 to try and help those kids, because I'm frankly ashamed that
3 they have been in school and are functionally illiterate. And I
4 or anyone else, I do not believe, can help them turn around
5 their lives if they can't read and don't have core basic
6 skills.

7 I hope that answers your question.

8 SENATOR KARNETTE: So, the way you want to meet
9 the goals, though, is to just encourage everybody to do the best
10 they can locally as much as possible?

11 MS. NICHOLAS: I'm sorry. I guess I'm not
12 understanding your question.

13 If you're asking if I support the state
14 establishing standards of what kids should know, and when they
15 should know them, if we should have a testing mechanism, an
16 assessment mechanism to measure that, the answer for me, at
17 least, is absolutely yes.

18 All of you, I'm sure, worked very hard on the
19 legislation that set that in motion.

20 SENATOR KARNETTE: Okay, I think that answers my
21 question.

22 CHAIRMAN LOCKYER: Thank you, Professor.

23 I note from looking at some of the news articles
24 that you suggest that new math, which encouraged students to
25 explore concepts but didn't emphasis correct answers, was a
26 cruel joke.

27 Are you properly quoted?

28 MS. NICHOLAS: No. I suspect -- I'm not sure

1 which article -- but I believe you entirely. No, that was --

2 CHAIRMAN LOCKYER: Press Democrat, wrong
3 newspaper.

4 MS. NICHOLAS: You made me blush, Senator.

5 CHAIRMAN LOCKYER: This is a conservative
6 Christian women's group meeting in Santa Rosa; Debra Saunders is
7 the speaker. Do you know that one?

8 MS. NICHOLAS: I don't mean to imply that the
9 quote was inaccurate. The context was cut out, which was the
10 question I was asked: did I support making -- throwing out
11 answers. You know, there was no right, no wrong in terms of
12 mathematics. I'm not speaking of anything other than
13 mathematics.

14 So, that statement, I'm sure, was accurate.
15 However, there was a whole other sentence before it, which
16 probably wasn't as good a sound byte for the paper.

17 SENATOR BRULTE: We've never experienced anything
18 like that at all, I want you to know.

19 [Laughter.]

20 CHAIRMAN LOCKYER: It actually is the thing I try
21 more than anything else to convince my colleagues of, is that we
22 shouldn't just write fundamentally new laws, as is often
23 suggested by some, based on slogan or anecdote. And it sounds
24 like the same kind of longing for some empirical basis that
25 disciplines our options.

26 Looking at another article, I see that some, at
27 least, believe that this debate is between those who would hope
28 to make math more interesting and meaningful to students. Based

1 more on memorization, the other side, more memorization than on
2 understanding.

3 Do those descriptions assist you?

4 MS. NICHOLAS: I couldn't hear what the question
5 was.

6 CHAIRMAN LOCKYER: Is that how you would
7 understand the debate?

8 MS. NICHOLAS: No. Truly, it's not, I must say.

9 I have to tell you, prior to being on the Board,
10 I never in my life would have guessed that mathematics could be
11 so debatable, so contentious.

12 CHAIRMAN LOCKYER: You know what we say in
13 academia: We fight so hard because the stakes are so low.

14 [Laughter.]

15 CHAIRMAN LOCKYER: But this case, if it really
16 has an impact on kids' lives, then the stakes are high, and we
17 understand that.

18 MS. NICHOLAS: Absolutely.

19 I may not be an educator, but I am a parent. I
20 do like to surround myself in, perhaps, a younger world.

21 I don't know of anyone, whatever your theory of
22 mathematics or not, who would want to bore young children, who
23 would want to not have them inspired, to use your gym teacher
24 analogy.

25 I won't take your time to tell you a few of my
26 vignettes from my past, but I think we all recognize that not
27 only do we have to provide materials, we have to inspire the
28 mind to be willing to absorb those terms.

1 CHAIRMAN LOCKYER: Every person I know has a
2 teacher in their life that usually made a big difference in
3 their life.

4 MS. NICHOLAS: Absolutely.

5 CHAIRMAN LOCKYER: Almost always that is a
6 teacher who could motivate people, not just teach them basic
7 drills; almost always.

8 So, I think that's perhaps what some are trying
9 to suggest on the other side of the debate, is that there's a
10 needs to excite and capture and involve students, and that
11 computations won't do that alone.

12 Now, we understand that computational skills are
13 important to just living, as well as moving on, perhaps, to more
14 higher order thinking, and that's an interesting debate. What
15 did we used to call it, the Bloom's Taxonomy.

16 I want to conclude maybe this particular segment
17 by asking you this. You're quoted as saying you're hoping that
18 we're not going to have these pendulum swings, that we're
19 entering another type of era where we're not looking at
20 experimentation without solid research. We're looking for
21 balance.

22 So, when you get the product of the Framework,
23 will you insist on an empirical basis, and pilot testing, and
24 trying things out, and seeing that they work before there are
25 radical changes in direction?

26 MS. NICHOLAS: Absolutely. I hope you'd remove
27 me if I didn't.

28 CHAIRMAN LOCKYER: I can't. This is it. This is

1 our only shot at you, you see.

2 The only other thing on this point I'd like to
3 mention is that the ABC bill, I think many have claimed it
4 provides more direction than is, in fact, the case. Like so
5 many laws, they can be read in numerous different ways.

6 But the only thing relevant that it says is that
7 the Board should adopt programs based on the fundamental skills
8 required by the subjects, including but not limited to basic
9 computational skills.

10 While that language is there, some would think
11 that critical thinking is possible at any age. It's not just
12 something you learn older.

13 I'm a high school teacher, so we always used to
14 fight about those that were subject-matter expert versus those
15 that really understood growth and development. I don't want to
16 get into the matter.

17 But I don't know there's necessarily a conflict,
18 other than as it's been misunderstood, over-simplified, and
19 subject to public debate, and a debate that in many ways wants
20 to just blame somebody or something for the decline in test
21 scores; scores that Senator Ayala was expressing concern about.

22 Senator Hughes.

23 SENATOR HUGHES: I wonder, Ms. Nicholas, how
24 important do you think is problem solving in terms of the kind
25 of test scores that we did poorly in? If you just gave simple
26 multiplication, subtraction or addition problems, I think that
27 our students might have done as well as some other places.

28 But problem solving, how important do you think

1 that is, to emphasize problem solving? That's a higher order of
2 thinking, and so as some of the mathematics experts zero in on a
3 focus on mathematics, how much emphasis do you give to problem
4 solving?

5 MS. NICHOLAS: What I've look at so far, this is
6 just a personal observation, it happens to be reflected in the
7 what's called the Program Advisory on Mathematics, that this
8 point in time, looking at current confirmed research, you really
9 can't differentiate and say, are basic skills more important
10 than problem solving or more important? The terminology we use
11 for what you described is conceptual understanding.

12 And the answer is, it's not a game where one
13 votes which is most important. But those three components
14 really work together to produce a solid mathematical background,
15 hopefully, for all our students. So, they need to work
16 together, and there is no magic formula, the percentage of each
17 day that must be spent on each skill.

18 SENATOR HUGHES: But isn't there also the
19 realization that all of us who are in this room, each of us can
20 solve a problem, a mathematical problem, in a different way?

21 I usually think in groups of tens, or I combine
22 numbers that I know better, and round off in tens, and adding up
23 columns. And other people do it other ways.

24 CHAIRMAN LOCKYER: I take my shoes off.

25 SENATOR HUGHES: So, isn't that finding out where
26 the student is, and not telling the student they are wrong,
27 asking them to explain how they got to their conclusion, which
28 is the same answer that someone across the room would come to?

1 The respect for individuality.

2 MS. NICHOLAS: Absolutely, but I think I have to
3 say, because I'm often asked the question, certainly not in a
4 setting like, that it goes far beyond math. The respect for
5 individuality that we're trying, I think, and hope to foster
6 throughout society certainly has to be there in all those
7 schools, whether it's in math class, or in some other class, or
8 on the playground.

9 I guess my only experience I can bring to that,
10 your Chairman's comments were that in school, I can always
11 remember every math teacher I ever had said: show your work,
12 and even if you get an incorrect answer, you will receive some
13 form of partial credit for my understanding of what it is you've
14 done with this problem. And that was in the Dark Ages, and even
15 then, they were recognizing.

16 SENATOR HUGHES: What's wrong the Dark Ages?
17 Weren't our scores up then?

18 MS. NICHOLAS: I'm not touching that.

19 CHAIRMAN LOCKYER: Let me shift to a couple other
20 quick issues.

21 Three years ago, while you were on the Board of
22 Supervisors, I think, the Voucher Initiative was on the ballot.

23 Can you tell us what your view is generally about
24 that topic?

25 MS. NICHOLAS: I left the Board of Supervisors in
26 1991.

27 CHAIRMAN LOCKYER: Subsequently, then, you're a
28 private citizen at this time. Do you have a view on the

1 initiative, generally, about voucher education?

2 MS. NICHOLAS: As I recall of that, it was fairly
3 publicized even though I was a private citizen that I did not
4 support that initiative.

5 In terms of looking at California public
6 education, I really think there's a spectrum of -- everyone
7 wants to get to the same point. There are no evil people that
8 don't care about kids and don't want to do better for them.

9 Some people really focus on the structural
10 side. And that's certainly their prerogative.

11 CHAIRMAN LOCKYER: You mean like voucher on the
12 structural side.

13 MS. NICHOLAS: Voucher, structural side. I read
14 an article --

15 CHAIRMAN LOCKYER: Theories of competition, or
16 whatever?

17 MS. NICHOLAS: The competition theory, maybe we
18 shouldn't have public -- I mean, there are all kinds of theories
19 out there.

20 To me, the other side of that is what happens in
21 the classroom. And when I signed on to work as hard as I could
22 for California kids, I signed on to what happens in the
23 classroom side.

24 CHAIRMAN LOCKYER: Good emphasis. Hope you'll
25 stay there.

26 MS. NICHOLAS: Thank you.

27 CHAIRMAN LOCKYER: How many hours do you think
28 you put in a month in this activity?

1 MS. NICHOLAS: I don't know if you want to ask me
2 that this month.

3 CHAIRMAN LOCKYER: Well, get it in the record.

4 MS. NICHOLAS: On a typical month, our Board
5 meetings are three days in a month, and I probably spend the
6 equivalent of a 40-hour week, not necessarily all in one block,
7 in preparation or reading, and I'm constantly behind.

8 CHAIRMAN LOCKYER: You mean each week?

9 MS. NICHOLAS: No, excuse me, a month.

10 CHAIRMAN LOCKYER: Forty hours so a month?

11 MS. NICHOLAS: Yes.

12 CHAIRMAN LOCKYER: For the reading, studying,
13 committees, and the full committee?

14 MS. NICHOLAS: Yes, not so much in my case the
15 committee.

16 CHAIRMAN LOCKYER: So, maybe ten hours or so a
17 week if you were to spread it through.

18 MS. NICHOLAS: Spread it out.

19 SENATOR KARNETTE: I have one more question.

20 Ms. Nicholas, are you familiar with the
21 demographics and the compositions of all the various areas in
22 California? I'm sure you're aware of that, but from the
23 southern part of the state and all the way up to urban centers?

24 I mentioned reading earlier, because I firmly
25 believe that reading is what the problem is, and a lot of the
26 math problem is reading. It's not computation; it's reading.
27 You can't reason if you can't understand the words.

28 So, as a teacher, I feel like that's a very

1 serious problem.

2 How do you see California, and the composition of
3 the various classrooms? Do you understand pretty well where
4 people live, and who lives there, and all those things?

5 MS. NICHOLAS: I would be remiss if I told you I
6 understood all of California. I mean, I understand and
7 certainly have looked at the demographics of different parts of
8 the state. I understand both the existing and the projections
9 for our student populations, looking for the next decade, and
10 the tremendous needs for facilities -- maybe I'm lobbying you a
11 little on this occasion -- that we face in California as well as
12 the challenges.

13 But I really believe there are opportunities in
14 those challenges. It's really glass half-full, glass
15 half-empty. I think it's half full.

16 CHAIRMAN LOCKYER: How much money do you want per
17 kid for class size reduction? So far the choices are: 650;
18 850; the Satanic one, 666, that's the Governor's budget; 750.

19 Do you have a number?

20 MS. NICHOLAS: I don't, Senator.

21 CHAIRMAN LOCKYER: Let me just suggest, I know
22 there are other people that would wish to comment. Look at the
23 result. We're ready to vote.

24 SENATOR HUGHES: I just want to ask her one last
25 question.

26 I met you. I didn't realize that you were a
27 brand-new person on the School Board when you came, at Delaine
28 Eastin's invitation, to Compton.

1 What did you learn from that experience that can
2 help you understand your job better?

3 CHAIRMAN LOCKYER: This may be the toughest
4 question of the day.

5 SENATOR HUGHES: Yes. What did you learn from
6 that experience?

7 MS. NICHOLAS: Senator, from that experience,
8 which I remember vividly and will never forget for the rest of
9 my life, I learned that I will fight as long and as hard as I
10 can to improve conditions for California kids.

11 SENATOR HUGHES: Let's go for a vote.

12 SENATOR AYALA: I'd like to make a motion.

13 I move that Janet Nicholas, Member of the State
14 Board of Education, be confirmed.

15 CHAIRMAN LOCKYER: Any comment from Members?

16 SENATOR BRULTE: I came in predisposed to support
17 you, and not withstanding the support of a Jerry Brown
18 appointee, I'm still there.

19 [Laughter.]

20 CHAIRMAN LOCKYER: Even a stopped clock is right
21 twice a day.

22 Call the roll.

23 SECRETARY WEBB: Senator Ayala.

24 SENATOR AYALA: Aye.

25 SECRETARY WEBB: Ayala Aye. Senator Brulte.

26 SENATOR BRULTE: Aye.

27 SECRETARY WEBB: Brulte Aye. Senator Hughes.

28 SENATOR HUGHES: Aye.

1 SECRETARY WEBB: Hughes Aye. Senator Lewis.

2 SENATOR LEWIS: Aye.

3 SECRETARY WEBB: Lewis Aye. Senator Lockyer.

4 CHAIRMAN LOCKYER: Aye.

5 SECRETARY WEBB: Lockyer Aye. Five to zero.

6 CHAIRMAN LOCKYER: Let me just conclude by first
7 congratulating you and wishing you well in your
8 responsibilities. And hoping that you'll stay true to the kind
9 of disciplined and empirical approach that you've indicated you
10 think is the right way to make important decisions of this
11 sort.

12 I think we're all impressed by your competence
13 and genuine commitment to improving schooling for kids in
14 California, and our vote is in no way meant to be, and hope
15 won't be interpreted, as disrespectful to the Math Council and
16 others who have every right to aggressively involve themselves
17 in these debates. I hope they'll continue to do that.

18 Thank you, good luck.

19 MS. NICHOLAS: Thank you very much, sir.

20 [Thereupon this portion of the
21 Senate Rules Committee hearing was
22 terminated at approximately 4:03 P.M.]

23 --ooOoo--
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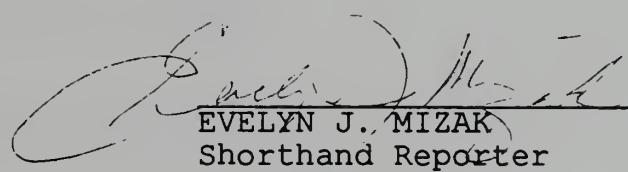
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I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 6th day of March, 1997.


EVELYN J. MIZAK
Shorthand Reporter

MARCH 3, 1997

DORENE L. MUSILLI

STATEMENT BEFORE CALIFORNIA SENATE RULES COMMITTEE

MR. CHAIRMAN, SENATORS,
THANK YOU FOR THIS OPPORTUNITY TO SPEAK.

I AM DORENE MUSILLI. I CURRENTLY SERVE AS A TRUSTEE ON OUR LOCAL SONOMA VALLEY BOARD OF EDUCATION. FOR 17½ YEARS PRIOR, I SERVED AS A MEMBER OF THE SONOMA COUNTY BOARD OF EDUCATION.

HAVING SPENT 20 YEARS AS A SCHOOL BOARD MEMBER, I WATCHED HELPLESSLY AS OUR STATE DESCENDED FROM AMONG THE TOP FIVE TO THE BOTTOM FIVE STATES AND TERRITORIES. I WISH TIME PERMITTED ME TO SHARE WITH YOU MY EXPERIENCES.

WE HAVE ALL SEEN THE STATE BY STATE RANKINGS.

MY FEELINGS OF HELPLESSNESS AND FRUSTRATION WERE SOMEWHAT RELIEVED WHEN MRS. NICHOLAS WAS APPOINTED TO THE STATE BOARD OF EDUCATION. AS A LOCAL BOARD MEMBER AND SMALL BUSINESS OWNER WHO UNDERSTANDS WHERE AND HOW HELP IS NEEDED, I SEE IN JANET NICHOLAS A SENSE OF BALANCE TOWARD EDUCATION ISSUES. THIS BALANCE IS DESPERATELY NEEDED IN OUR STATE.

YOUR COMMITTEE IS JOINED IN THE BATTLE TO BRING NECESSARY AND REASONABLE REVIEW TO OUR EDUCATION POLICIES IN THIS STATE.

PLEASE RECOMMEND CONFIRMATION OF MRS. NICHOLAS SO
THAT PROCESS CAN ENJOY BALANCE.

THANK YOU.

DORENE L. MUSILLI

P.O. BOX 1610
BOYES HOT SPRINGS, CA 95416
(707) 938-1418



SONOMA VALLEY
UNIFIED SCHOOL DISTRICT

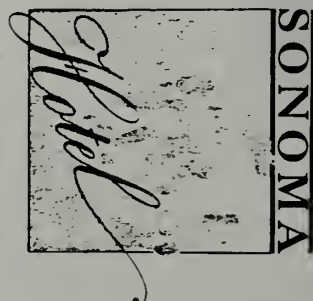
DORENE MUSILLI
TRUSTEE

721 WEST NAPA STREET
SONOMA, CALIFORNIA 95476

TEL: (707) 935-6003
FAX: (707) 935-4276

John & Dorene Musilli
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1:52 P.M.

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16 MONDAY, MARCH 10, 1997

17 1:52 P.M.

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25 Reported by

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27 Evelyn J. Mizak
28 Shorthand Reporter

APPEARANCES

MEMBERS PRESENT

SENATOR WILLIAM LOCKYER, Chair

SENATOR JOHN LEWIS, Vice Chair

SENATOR RUBEN AYALA

SENATOR JAMES BRULTE

SENATOR TERESA HUGHES

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

ANNE L. BERSINGER, Chief Deputy Director
Department of Social Services

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P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN LOCKYER: Ms. Bersinger is next.

Do you want to begin with any kind of comment?

MS. BERSINGER: Yes, Senator, I have a brief comment, if I may.

Mr. Chairman and Members of the Rules Committee, I'm Anne Bersinger, and I'm here to talk with you this afternoon about my qualifications for the position of Chief Deputy Director of the Department of Social Services, a position that I've been in since June 1st of 1996.

My role is that of day-to-day manager of the Department, responsible for implementing the policies of the Director and the administration. I believe that my background makes me particularly well suited for this position, in that I have many years of experience in state government, working in a variety of departments.

Immediately prior to my current job, I was the Chief Deputy Director of the Department of Motor Vehicles, a department that is twice the size of the Department of Social Services. My role there was that of chief operating officer of a 24-hour, 7-day a week operation. I served in that position from 1991 to 1996 and was the Chief of Administration there for the preceding four years.

DMV is the equivalent of a large manufacturing operation. During my nine-year tenure, I learned the import of attending to problems quickly, and the need to keep a constant focus on the goal that you want to achieve. Failure to do so

gives the organization the opportunity to dissipate resources in any number of ways.

In addition, I have ten years of prior experience with the Department of Social Services between 1974 and 1984. I was the Deputy Director for Community Care Licensing there for five years. I also managed the food stamp program, the state supplemental payment program, and several refugee programs.

These positions taught me the value of engaging in discussions with all interested parties on all issues, especially those where there are opposing points of view. While such interaction doesn't necessarily result in agreement, it nearly always produces a clearer understanding of the issues and of the viable solutions.

I also learned the vital importance of counties in carrying out welfare programs in California. They are our front line partners and must participate in planning of any major change because it is they who will be taking the action to implement the agreed-upon change.

This combination of program management and administrative experience has given me a solid base to bring both perspectives to bear on the myriad challenges that are facing the Department today.

I went to work at the Department of Social Services expecting that welfare reform would not pass at the federal level and would continue to be pursued incrementally. Yet even without welfare reform, there were many major reform efforts under way at the Department. It was not long before I learned that my expectations about major reform were wrong, and

1 I was involved in planning one of the largest and most
2 far-reaching undertakings in state government. I admit that the
3 task is daunting; however, I believe that I'm well-suited to
4 manage it and other Department programs as well. I hope you
5 will agree.

6 Thank you for listening to my comments, and I am
7 happy to answer any questions that you may have.

8 CHAIRMAN LOCKYER: Senator Hughes.

9 SENATOR HUGHES: I appreciate your coming before
10 us today, but there are some things that really trouble me about
11 the onerous responsibility that we all have to see that welfare
12 reform is reformed the way that the nation's leaders, and also
13 the state leaders, think makes good sense.

14 Congress and the President exempted the mothers
15 with babies twelve months or younger from joining the work
16 force. But then, the Governor has set a time period of twelve
17 weeks. So, when a baby is thirteen weeks old, the mother must
18 go to work or face grant cuts.

19 How do you think this works? How does this make
20 a lot of sense?

21 There seems to be no consideration of the number
22 of other children who might be in the family. I mean, this
23 sounds like what the Governor really thought of, just one child
24 in a family, talking about a beginning family.

25 What happens if there's a two or three-year-old
26 around with this other child there? Then is it feasible for
27 that mother then to go to work after the twelve-week period?

28 MS. BERSINGER: Senator, in the discussions to

1 which I was a party to relative to that issue, certainly one of
2 the fundamental issues in the entire welfare reform effort is
3 the issue of should a mother have to go to work and at what
4 point should she have to go to work.

5 I believe the distinction between the twelve
6 month exemption, which is included in the federal law, and the
7 twelve-week exemption, which is included in the Governor's
8 proposal, is that the twelve-week exemption more clearly
9 reflects the time-frame that a working mother has to take off
10 from her job, have her child, and then return to work. It was
11 that consistency between the working mother --

12 SENATOR HUGHES: This is assuming that a person
13 has previously worked, and now they're taking maternity leave
14 for the purpose of having a child. Is that what you're talking
15 about?

16 MS. BERSINGER: What I'm talking about here is
17 that when we structure a welfare program that is temporary in
18 nature, paralleling it where we can so that it reflects the same
19 experience that one would have if they were working, is where a
20 twelve-week exemption emanates from, that being what is provided
21 for in the Family Leave Act.

22 SENATOR HUGHES: But then, too, that's not
23 realistic in all cases, because if the children are too close
24 together in age, this presents another problem, another problem
25 of child care, and assuming that the new-born is in a healthy
26 condition. So, there are other factors that are not worked into
27 this equation.

28 So, it really, really concerns me that the time

1 is so short for the mother to make a major decision about going
2 back to work.

3 This is assuming that the mother has a job to
4 begin with. And so, you're equating it to what the present
5 rules are for someone who is taking a maternity sabbatical.

6 MS. BERSINGER: Yes, that is correct.

7 SENATOR HUGHES: So, that's kind of unrealistic
8 in a way, because people don't sort of plan their deliveries
9 scientifically enough to be able to fit into the parameters of
10 reality. And childbirth is not the case in which you're
11 guaranteed you're going to have a healthy baby and a healthy
12 mother who survives childbirth and is able to jump right back to
13 work.

14 How are you going to, or are you going to, try to
15 make this more realistic based on the individual cases?

16 MS. BERSINGER: Certainly, this proposal assumes
17 that the mother is healthy and able to return to work.

18 If, of course, she is disabled, or if in fact the
19 child is disabled, I think those present some unique
20 circumstances that aren't contemplated in the proposal itself.

21 The proposal did include an option for counties
22 to extend that exemption at their discretion, but the standard
23 was built upon the healthy mother who had a healthy child. And
24 under those circumstances, then, would be expected to begin
25 participation in the other work requirements of the Governor's
26 proposal upon the child reaching twelve weeks of age.

27 SENATOR HUGHES: Let me tell you another gray
28 area.

1 CHAIRMAN LOCKYER: Could I stay on that one for a
2 moment?

3 SENATOR HUGHES: Yes.

4 CHAIRMAN LOCKYER: You've had personal experience
5 that was extensive in Community Care Licensing.

6 MS. BERSINGER: Yes.

7 CHAIRMAN LOCKYER: What do you think, separate
8 from whether the mother is ready or the kid is healthy and ready
9 for child care, what are your notions about the availability of
10 child care slots for thirteen-week-old infants?

11 MS. BERSINGER: As I know you are aware, Senator,
12 infant care is not only the most expensive type of care that's
13 available, it is the one that is probably the least universally
14 available.

15 What we're unable to determine because most
16 counts of available infant child care have to do with day care
17 centers that take care of infants, we're really not able to
18 project, of the number of slots in family daycare, how many of
19 those are available for infant care.

20 But I don't think there's any question that
21 infant care is likely to be an area of child care shortage.

22 Now, the flip side of the coin is that if you
23 look at the experience of childcare for the welfare recipient
24 population, they have more frequently than not, that is, in the
25 majority of the cases, opted for exempt types of care, of
26 course, for which we have no information about, as opposed to
27 the licensed care of either family day care or day care
28 centers.

1 CHAIRMAN LOCKYER: Maybe a relative or a
2 neighbor?

3 MS. BERSINGER: Yes, a grandmother, and those
4 kinds of things.

5 CHAIRMAN LOCKYER: Senator Hughes, thank you.

6 SENATOR HUGHES: Congress and the President have
7 said that a person has 24 months of aid and then the person has
8 to find a job, and Governor says after twelve months on aid,
9 then you're off. That's one year.

10 Why are we being so tough and saying you can't
11 stay until your child is two? Do we have a lot of jobs
12 available to offer people? Are these people who are going to go
13 back to work? Do they have any skills to match the jobs that
14 are available?

15 If you're a secretary or a typist, and you have
16 proficiency, perhaps there might be some jobs in the area, and
17 perhaps there might not be. If you did a certain kind of work,
18 say, in my community where you worked for a plant, and that
19 plant has left, then you'll have to retool to get some
20 additional kinds of skills.

21 Why is that time cut short, exactly in half? Why
22 are we going to be tougher than the federal government, and we
23 have more job loss than they have in a lot of other places in
24 the nation?

25 MS. BERSINGER: Let me try to address the two
26 parts to that question.

27 First of all, as it relates to the one-year time
28 limit as opposed to the federal two-year time limit.

1 The thinking in the Governor's proposal is that,
2 first of all, we're talking about a time limit of the welfare
3 program in its entirety. We are talking about a five-year
4 lifetime limit. The Governor's proposal breaks that into
5 one-year increments, twelve cumulative months out of any 24
6 consecutive months.

7 And the thought is that if we put incentives in
8 place for people to go back to work more quickly, they are less
9 likely to use up the full amount of their lifetime limit.

10 Now, we have structured in the proposal the limit
11 such that, at the conclusion of the twelve months, the children
12 in that family unit continue on aid even though the adult would
13 not.

14 When you look at the jobs that are available,
15 California's economy is very robust, and it is growing much more
16 quickly than many economies across the state -- or across the
17 nation. Many of those new jobs that are created are
18 entry-level jobs, and we believe that a large proportion of the
19 welfare recipient population will be seeking those kinds of
20 entry-level jobs.

21 So, I think that the design is an incentive to go
22 back to work quickly so that you don't use up your five-year
23 lifetime limit in one spell of unemployment.

24 SENATOR HUGHES: But then, on the other hand,
25 doesn't a person have the right, or should they not be
26 encouraged, to try to move up the occupation ladder, to better
27 their skills so that they can be more marketable in terms of
28 bringing home a bigger paycheck to pay the bills of the growing

1 family?

2 Now this person has one more person to feed than
3 they had prior to their going out on maternity leave. Should
4 they go back to the widget factory or should they upgrade
5 themselves to be available for the job that they have in their
6 community? I mean taking advantage of community college or
7 other training.

8 MS. BERSINGER: I think the experience that most
9 people have is that even with training, you typically start out
10 at the bottom and you work your way up the ladder.

11 I think the Governor's proposal is premised on
12 the fact that any job is acceptable, honorable employment, and
13 is preferable to welfare. And that starting out, one would
14 expect that, as most of us do, you start at the bottom and then
15 work your way up through the ranks, and you do that while you're
16 employed.

17 SENATOR HUGHES: But if you get a job at
18 McDonald's, it might be ten or fifteen years before you ever
19 become even an assistant manager.

20 Are you to stay on that track forever if you go
21 back so quickly? Is it going to be a realistic goal that this
22 person can be even more productive than they are now?

23 This person might have done that when they were
24 in high school, or something like that. Is it going to be dead
25 end?

26 MS. BERSINGER: I don't think we have any
27 information about whether it is going to be dead end, any
28 particular job is going to be dead end.

1 I think that the opportunities available to the
2 person who is taking an entry-level job to take additional
3 training at night, if that's what fits into their longer range
4 career goals, is the same as that which is available to anyone
5 that is working: to go school at night, to take additional
6 courses better themselves, and use that as the platform for
7 moving up in their career.

8 SENATOR HUGHES: Another area that confuses me is
9 why California, who has the largest population in the nation, is
10 going to be tougher than anywhere else? The President and
11 Congress maintain the job had to be 20 hours a week to comply
12 with the regulations, and our Governor has now said that the job
13 has to be 32 hours a week.

14 Where did the 32 hours come from? And does it
15 make it possible for them to provide more services to the family
16 and be employed? Are they going to make that much more money in
17 that additional 12 hours a week?

18 What was the Governor thinking, and who advised
19 him on the 32 hours as compared with the national recommendation
20 for 20 hours?

21 MS. BERSINGER: I think the thought is two fold.
22 First of all, the federal requirements, while they start out at
23 20 hours a week in federal fiscal year 1996, move to 30 hours a
24 week by federal fiscal year 2000. So, the difference between
25 the Governor's proposal and the federal requirement only exists
26 for about a year-and-a-half.

27 The second point I'd like to make is that the 32
28 hours a week reflects essentially four days of work, or four

1 days of participation, with a fifth day, then, available for
2 work search, or other activities of that nature.

3 When we have talked to employers, and we have
4 read information submitted by employers who have hired welfare
5 recipients, one of the things that is a common thread through
6 their commentary is that they want to be able to hire people
7 that are job ready, that have the soft skills, so that they
8 don't have to deal with issues of learning -- to have them get
9 up in the morning, have them get along with their co-workers,
10 take instructions from their supervisors.

11 Learning those soft skills, I believe, starts
12 with learning the pattern of a daily work routine. I think one
13 of the things that makes it easy for many of us to carry on all
14 of the aspects of life outside our work environment is, we have
15 learned that getting up at 5:30 or 6:00 o'clock in the morning
16 is just the way it is. And you have to do your grocery shopping
17 at night, and you have to arrange for your child care and have a
18 back-up system for when your child is sick.

19 Learning how to take care of those life's
20 activities, I think, is part and parcel of participating in work
21 requirements, so that during that time, you learn those same
22 kinds of skills, and you get in place the pattern that allows
23 you to do things more easily.

24 SENATOR HUGHES: Learning how to do what you have
25 to do and make adjustments to it, is what you're telling me.

26 Some people can learn that, and some people have
27 a great difficulty with it because they're too rigid in their
28 outlook.

1 But let me tell you, as someone who had to do all
2 of those things, you don't learn it easily.

3 You know, another area that really upsets me is
4 the whole system of how the county DAs enforce child support.
5 For all of these counties that we have in this state, we have
6 all of these different rules and regulations.

7 What is the Department doing to see that we have
8 more consistency across the counties? As a mother and her child
9 go from one county to another, the rules and the regulations
10 change, the enforcement changes.

11 Is the Department doing anything to upgrade and
12 make it more consistent so that people don't then have the
13 incentive to float from one county to another because the child
14 support collections are doing better in one area of the state
15 than the other?

16 Because I just think in my county, it's the
17 worst. Should I be advising all of my constituents to go north
18 or go somewhere else where they have better collections, like to
19 Senator Lockyer's district?

20 CHAIRMAN LOCKYER: That's assuming facts not in
21 evidence.

22 SENATOR HUGHES: I'm serious.

23 Because, you know, when you think of the fact
24 that some of these people, they're absolutely desperate. And
25 some of the other parties who are to render the financial
26 support know if they go to another county, that the pressures of
27 government won't be as tough on them to provide the kind of
28 support that's needed.

1 CHAIRMAN LOCKYER: What's the role of the
2 Department producing uniformity?

3 MS. BERSINGER: The Department works regularly and
4 frequently with all of the district attorney organizations
5 throughout the state to develop uniformity, and to see that the
6 regulations that are promulgated by the Department are carried
7 out equitably across all of the state.

8 As I'm sure you're aware, one of the requirements
9 that we believe is going to go a long way toward ensuring that
10 kind of equity is when we are successful in implementing the
11 statewide automated child support system.

12 SENATOR HUGHES: Do you think that's going to
13 come in before the Twenty-first Century?

14 MS. BERSINGER: Yes, I do.

15 SENATOR HUGHES: You'll have a lot of young
16 people reaching age 18 before then too.

17 MS. BERSINGER: I don't think there's any
18 question that it is going to be a while before that is complete,
19 but just last year, the State of California surpassed the one
20 billion dollar mark in the amount of child support collections
21 that were made statewide. That was the first time in our
22 history.

23 SENATOR HUGHES: But then, how do we measure up
24 next to other states? Where are we?

25 MS. BERSINGER: I can't answer that directly. I
26 do know that we have a larger share of welfare recipient clients
27 in our child support system than nonwelfare recipient clients
28 than do many other states. And it has been established that it

1 is more difficult to collect child support payments from the
2 welfare recipient population than from the nonrecipient
3 population. Yet, that is where California puts its emphasis.

4 SENATOR HUGHES: Well, you know, this whole
5 business of changing the nomenclature of AFDC to TANF, what is
6 that we've done? Are we just trying to totally confuse people?
7 They have to learn all of these acronyms, and along with
8 learning all the acronyms, they have to learn the new rules and
9 regulations. It boggles the mind of even those people who are
10 not on assistance.

11 You're going to limit the aid to twelve months in
12 any two-year period. How fair is it to change the name of the
13 game and the rules of the game? How are these parents supposed
14 to understand what it's all about?

15 All of a sudden, a mother of an infant has to
16 participate in work once her baby is twelve weeks old.

17 This seems like really mean, tough proposals, and
18 the President and the Congress have been a little more lenient,
19 but we're being even meaner and tougher.

20 What does this get us? What do you think is
21 going to become the final result? Is it to encourage people to
22 leave our state and to go elsewhere, or is it just to frustrate
23 the entire population so that they become very desperate and
24 they see no future for themselves?

25 MS. BERSINGER: I think there's no question that
26 there is a tremendous educational effort that needs to occur as
27 the final decisions on welfare reform are finally arrived at.

28 SENATOR HUGHES: What's going to be your effort?

1 How are you going to soften this blow to people who knew what
2 the AFDC program was before TANF was developed?

3 MS. BERSINGER: My job is going to be to work
4 with the counties who are responsible for implementing the
5 agreed upon program, and to help them in every way I can to make
6 sure that they have the tools, not only to educate their client
7 population, but to educate their own employees in this
8 tremendous change that is going on right now.

9 I don't disagree at all that the nature of the
10 change and the magnitude of the change is huge, and it is going
11 to take a tremendous amount of effort for us to get both
12 employees as well as recipients to understand what those changes
13 are.

14 SENATOR HUGHES: There are a lot of people out
15 there. On Saturday, I was in the projects in Watts, working
16 with a group of people in a workshop. And I was fortunate to
17 have someone there from DSS talk about licensing, and there were
18 a lot of people there in earnest who wanted to provide child
19 care. They didn't know the ABCs of how do you get a license,
20 how do you meet all of the requirements of having a good child
21 care system.

22 And I think one of our reasons there was to try
23 to encourage people who have never been in this business before,
24 who expressed a sincere interest in becoming a licensed adequate
25 child care facility, how did they go about this business?

26 And some of those people were grandparents whose
27 children were now adult; some of those people were not parents
28 at all, but were sincerely interested in providing child care

1 and thought that they could adequately do it.

2 But most people don't even know how to go about
3 doing this. What is your Department doing?

4 Your Department was helpful in terms of helping
5 me get some local agency folks there to talk to them, but we had
6 a room full of people who were just anxious. People from church
7 communities, people who had run child care centers during the
8 week were also thinking of becoming entrepreneurs and maybe
9 having a weekend child care facility so that some parents could
10 gain some relief on the weekends, to have some time to
11 themselves, just like we give respite care in nursing home
12 situations for the elderly.

13 What kind of out-reach would you see that your
14 Department could do in this regard to encourage people who are
15 capable, ready, and anxious, and are good at heart, in
16 developing this as a working operation for themselves?

17 MS. BERSINGER: We would like to do two things in
18 that area, Senator. One is, we want to work with current
19 licensed providers, family day care providers primarily, to help
20 them stay in business and know what the requirements are so that
21 they are successful.

22 We are also putting in place a program where we
23 go out into the communities to provide training to those people
24 who are interested in becoming family day care providers, so
25 that they can learn the requirements and don't have to come into
26 our offices or other areas away from their community in order to
27 learn those.

28 SENATOR HUGHES: How are you going to reach

them? How do you plan on reaching them?

MS. BERSINGER: One of the things that has been started very recently is working through the resource and referral agencies that are located in the communities, and asking them to set up groups that are interested in talking about, learning about child care, whether it is at a school, or in a church, or in a local community center.

We are sending staff out there to train them, to train them in bilingual, in their native language if that is necessary. So, that we take the education to them rather than requiring them to come to us.

SENATOR HUGHES: I hope you reach them, because it's really a difficult problem.

There was a gentleman there who was retired, a retiree. I guess he was in his early 60s. He was taking care of three children.

He's not married. He's single gentleman. The children were ages five, eight, and ten. He was an uncle, and he said that they're driving him up the wall.

And he loves these children. He wants to take care of them, but he heard that we were having this workshop on child care, and he came there to get some help. He said he cannot morally see these children not taken care of, and yet, still, he is a relative, but he feels inadequate in terms of taking care of them.

What kind of out-reach do you plan on having to help people like this?

This is a responsible relative. A lot of

1 relatives close their doors, and they don't want to be
2 responsible.

3 Are you working with housing projects? Because
4 there was another lady there from the Jordan Downs housing
5 project. And she was talking about the programs that they had,
6 and the things that they hoped to do.

7 So, you know, are you going to be reach out there
8 in the community?

9 MS. BERSINGER: We are certainly going to do that
10 from the base of our licensing operation.

11 We'll also work very closely with the resource
12 and referral agencies that are funded through the Department of
13 Education, who also will be training -- will be providing
14 training and out-reach to give the information about what it
15 takes to become a licensed provider to the people that they're
16 aware of as well.

17 SENATOR HUGHES: People in my community are lucky
18 to find any kind of provider, licensed or unlicensed.

19 Let me tell you, poor folks don't have the luxury
20 of doing the investigations to find out whether these people are
21 licensed or not licensed. All they care about, if you're
22 willing, if you appear to be able, and they think you can
23 convince them that you're going to care for their children and
24 love them as much as they love their own children.

25 MS. BERSINGER: In my view, the important thing
26 is that people be able to make an informed decision about the
27 kind of care that they select. And that if they want to find
28 licensed care, that they know how to go about doing that. And

1 if they don't want to use licensed care, that they do that, but
2 in a way so that they can evaluate the kind of exempt care that
3 they're seeking.

4 SENATOR HUGHES: I fully realize these people are
5 under pressure time-wise. Under pressure to find someone
6 somewhere that they hope will take adequate care of their
7 children. And it is not easy.

8 People might have a nice facility that looks
9 really good to you. And if your children are very small, like
10 these children are going to be, they're not able to talk and
11 articulate to you how people are going to treat them. You're
12 just going to take a gamble and a chance because you'll see a
13 facility that looks like it's okay, and you're going to just
14 have to place your child there because your time is up.

15 I hope that you have not only more out-reach, but
16 you have more sensitivity.

17 You ever been a single parent?

18 MS. BERSINGER: No, I have not, Senator.

19 SENATOR HUGHES: I have. It is scary. It is
20 really a scary situation when you have to ask some total
21 stranger, or some person that seems to be a friendly neighbor,
22 to help you out. It is really, really scary.

23 And so, I think you have to be a lot more
24 compassionate rather than methodical in reaching these
25 deadlines. And there has to be more for flexibility when you
26 just say to people: go place your child somewhere; you must go
27 to work now.

28 So, if you hear no one else say it, I'm saying it

1 to you. It is like taking your most precious possession and
2 putting it on the freeway and saying, get hit if you want to.

3 I really get concerned about this.

4 MS. BERSINGER: I certainly understand your point
5 of view.

6 And I think that those kinds of decisions are the
7 kind of decisions that working mothers face today in finding
8 child care for their child. And there will be more of them.

9 CHAIRMAN LOCKYER: Senator Hughes, I think you
10 asked some very good questions.

11 I guess in a general way, to help clarify my
12 responsibilities related to many of those issues, I pose this
13 question.

14 What proportion of your time would you estimate
15 is mostly administrative rather than policy making?

16 MS. BERSINGER: Most of my time is
17 administrative. My job is to figure out how to get things
18 implemented.

19 While I don't mean to say I don't participate in
20 some of the policy discussion, that is not the large part of my
21 job.

22 My job is to find ways to get things done.

23 CHAIRMAN LOCKYER: Were you involved in
24 administrative matters in the Department of Motor Vehicles?

25 MS. BERSINGER: Yes, I functioned primarily as
26 the chief operating officer there.

27 CHAIRMAN LOCKYER: Can you help us understand
28 about the computer SNAFUs there that occurred during that time?

1 MS. BERSINGER: Well, the computer systems of the
2 Department of Motor Vehicles are among the largest in the world.
3 They are legacy systems, and the technology of the mid-80s
4 suggested that had way you dealt with legacy systems was, you
5 looked for some way to migrate them to a client-based system,
6 probably using a relational data base, which was a totally
7 different structure than what the department had had, still has
8 today.

9 CHAIRMAN LOCKYER: It's organized now in what way
10 that's different?

11 MS. BERSINGER: It's two flat files. There's a
12 driver's license file, and there is a vehicle file. Each of
13 them having -- there's probably 26 million vehicles active, and
14 another ten or twelve million inactive, and probably 23 or 24
15 million drivers. Huge data bases with tremendous amounts of
16 data about each person or vehicle on them.

17 One of the problems, and it's my personal
18 opinion, one of the problems that state government has is in
19 terms of implementing any of its information technology
20 projects. As we all know, it takes a very long time between the
21 time you start and the time you are ready to implement your
22 product. You are probably implementing something that is
23 obsolete, and that presumes that you have successfully gotten
24 through the development phase.

25 The thing that state government, I think, has not
26 done a good job at, and something, frankly, that while I was at
27 the Department of Motor of Vehicles I tried to get in place, and
28 I am working also with the Department of Social Services on, is

1 to develop the project management skills in state managers that
2 allows us to take advantage of some of the project management
3 techniques that are now being used by major companies throughout
4 the world in managing there IT projects.

5 I'm not suggesting that manager become IT
6 professionals. I cannot; perhaps others can, but I cannot.

7 But I can learn to use some of the project
8 management tools that are going to give me a way of assessing
9 whether this technology project is on budget, is on time, and
10 whether there is a problem that has developed that threatens the
11 very continuation of that project.

12 Project management training is something that I
13 put in place before I left the Department of Mother Vehicles,
14 and I am in the process of putting that in place at DSS.

15 But these are not easy tasks.

16 CHAIRMAN LOCKYER: How do you train them? What
17 happens? Where do they go?

18 MS. BERSINGER: There are a couple of very good
19 sessions on project management. Most of them are designed for
20 the hands-on project manager. Many of them use automated tools
21 to develop the level of detail that's needed to manage
22 projects.

23 Microsoft Project is a tool that a lot of people
24 use that can be used at a high level for executives to manage
25 milestones, and to see if projects are on target, and have
26 reached the milestones, and whether issues have come out of
27 that. And then, at much lower levels, it can go into any amount
28 of detail you want about whether the various pieces are being

1 done in a proper sequence.

2 I'm also in the process right now of developing a
3 session for what we are calling project sponsors. As you are
4 no doubt aware, at the Department of Social Services, project
5 management for the major information technology projects is done
6 by the Health and Welfare Data Center, something that I,
7 frankly, applaud.

8 But that does not relieve the Department of
9 Social Services from working very closely with both the Health
10 and Welfare Data Center as well as the vendor, making sure that
11 the project meets the objectives that programatically we have.
12 So, we are working on developing some training that will focus
13 specifically on that kind of knowledge and the responsibilities
14 needed for that kind of function.

15 CHAIRMAN LOCKYER: Are there other questions from
16 Members?

17 Anyone care that's here to comment.

18 Senator Hughes, anything further?

19 SENATOR HUGHES: You know, I'm not ready to vote
20 yet because you answered my questions adequately, but I've seen
21 no simpatico from you.

22 I want to hear how you're really going to help to
23 solve these problems when a mother really wants to go to work,
24 but is worried about where she's going to adequately place her
25 child and not be worried.

26 Several other things come to my mind that I can't
27 articulate right now, but it's very hurtful when I even think
28 about the desperation.

1 CHAIRMAN LOCKYER: Senator, the question I pose
2 is, do you want to shoot the messenger?

3 SENATOR HUGHES: No, I don't want to shoot the
4 messenger.

5 I want a commitment from the messenger that she's
6 going to take the message. That's what I want.

7 CHAIRMAN LOCKYER: The problem we have is that,
8 if I understand the job correctly, that it is principally
9 administrative. That the policies that you've raised, which are
10 very valid matters to have us debate and discuss, may only in
11 remote ways bear on her job responsibilities.

12 Maybe if the Department Director, maybe --
13 although I think these, frankly, come from even further up than
14 that -- were before us, maybe.

15 SENATOR HUGHES: Well, how do you think your
16 Department will be leaning in reference to the points that I
17 thought of? How do you think you as an administrator can
18 influence the attitude of your Department? Or can you, or will
19 you? Are you committed to?

20 MS. BERSINGER: Senator, sometime ago when I was
21 in the Department, and I was in Community Care Licensing for
22 five years, I spent time in hundreds of day care centers and
23 family day care homes, talking to providers, talking to parents
24 that used good facilities and parents that used inadequate
25 facilities.

26 All I can tell you is, I understand the quandary
27 of a parent having to place their child in day care. I have not
28 had to make that choice because I don't have a child to put in

1 day care, but I appreciate, from talking to hundreds of parents
2 about the dilemmas that they have, as you have described here,
3 about putting their child in day care.

4 But the fact of the matter is that the majority
5 of parents today, both of them work. And they do have to find
6 some kind of child care for their children.

7 My commitment is to work vigorously to make sure
8 that child care choices are available. And that when those
9 child care choices are licensed choices, since licensing is part
10 of the purview of my Department, is to make sure that they
11 adhere to the standards that we have set out.

12 But I don't mean to seem callous to that issue.
13 I'm not callous to that issue at all. I know it is a tremendous
14 one as we move forward in that arena.

15 CHAIRMAN LOCKYER: In that connection, having had
16 my office work with you on numerous occasions when there was an
17 Alameda County child care licensing problem, I appreciate your
18 diligent efforts to try to work through those matters.

19 I don't know if anyone was ever totally satisfied
20 with the outcomes, but you certainly gave them your attention
21 and worked at it hard.

22 MS. BERSINGER: I appreciate that, Senator.

23 SENATOR HUGHES: Could you explain to me a little
24 more about what happened in that case? I don't mean to be
25 difficult, but I want to find out what you're thanking her for.

26 CHAIRMAN LOCKYER: There were lots of different
27 complaints, and they would be the range of a provider that
28 thought they were unfairly disciplined, to a parent or someone

1 else that thought the discipline was too lax. It would be a
2 whole range of issues, or speed of licensing, or payments. Just
3 a lot of administrative matters that we seem to be, on occasion,
4 unable to work through locally.

5 So, we would go to the boss, and often got things
6 resolved in at least what seemed to be the best possible
7 outcome.

8 SENATOR HUGHES: How do you get along with Eloise
9 Anderson? She has been a single parent and you have not.

10 She has told me that you were hand-picked by
11 her.

12 Why do you think she hand-picked you? What do
13 you think you had that you could give her in terms of support
14 for the agency?

15 CHAIRMAN LOCKYER: Somebody that knew what they
16 were doing. I'll offer that.

17 SENATOR HUGHES: That's with motor vehicle
18 licensing. I mean in this regard.

19 I really want to know, because then you tell me a
20 little bit about why you think you are good for this agency or
21 not good for this agency.

22 MS. BERSINGER: I think there are probably three
23 reasons that Eloise asked me to take this position.

24 One is, I have a lot of experience in state
25 government. And because of that, I can help her accomplish the
26 objectives that she has.

27 I have ten years of experience in the Department
28 much Social Services. I'll acknowledge that it is somewhat

1 dated, but certainly the program areas that I managed during
2 that ten-year period are the same program areas that are there
3 today.

4 And I think the third thing is that I had,
5 frankly, never met Eloise until we had started talking about
6 this position.

7 SENATOR HUGHES: Did she seek you out or you
8 sought her out?

9 MS. BERSINGER: She called me.

10 SENATOR HUGHES: How were you recommended?

11 MS. BERSINGER: I don't know that. I know that
12 Eloise called me one afternoon and told me that she was
13 interested in a chief deputy, and she wondered if I would be
14 interested in talking with her about that.

15 That was the beginning of a relatively long
16 discussion with her at various times and places, the conclusion
17 of which is that she believed and I believed that we could work
18 well together.

19 And I think over the past seven or eight months,
20 that has proved very much to be the case.

21 SENATOR BRULTE: You worked for the state how
22 many years?

23 MS. BERSINGER: For 28 years, Senator.

24 SENATOR BRULTE: How many governors have you
25 worked under?

26 MS. BERSINGER: Well, this is the first Governor
27 that I've worked under in a gubernatorial appointed position.

28 SENATOR BRULTE: Who was Governor when you came

1 to work for the state.

2 MS. BERSINGER: Mr. Reagan.

3 SENATOR BRULTE: I'm not trying to test your
4 lesson of history. I was in junior high school at the time.

5 MS. BERSINGER: I'm trying not to point that out,
6 Senator.

7 [Laughter.]

8 SENATOR BRULTE: Governor Reagan?

9 MS. BERSINGER: Yes.

10 SENATOR BRULTE: And you served in state
11 government when Governor Brown was in?

12 MS. BERSINGER: Yes, Jerry Brown.

13 [Laughter.]

14 CHAIRMAN LOCKYER: There was another before your
15 time.

16 SENATOR BRULTE: And you served in how many
17 different agencies?

18 MS. BERSINGER: I have worked in a half dozen
19 different departments.

20 SENATOR BRULTE: What are those six departments?

21 MS. BERSINGER: I have worked in the Department
22 of Health. I have worked in the Department of Social Services.
23 I've worked in the Department of Personnel Administration. I've
24 worked in the Department of Motor Vehicles. I'm worked in the
25 Department of EDD, what is now EDD.

26 CHAIRMAN LOCKYER: If you forget any of them,
27 you're really in trouble now.

28 MS. BERSINGER: There's one other I worked for,

1 the Department of Benefit Payments, and probably very few of you
2 ever remember that. It was a short-lived department.

3 SENATOR BRULTE: Thank you.

4 SENATOR LEWIS: I'd like to move confirmation.

5 CHAIRMAN LOCKYER: We have a motion to that
6 effect.

7 Any final questions or comments.

8 The motion to confirm is before us. Call the
9 roll, if you will, please.

10 SECRETARY WEBB: Senator Ayala.

11 SENATOR AYALA: Aye.

12 SECRETARY WEBB: Ayala Aye. Senator Brulte.

13 SENATOR BRULTE: Aye.

14 SECRETARY WEBB: Brulte Aye. Senator Hughes.

15 Senator Lewis.

16 SENATOR LEWIS: Aye.

17 SECRETARY WEBB: Lewis Aye. Senator Lockyer.

18 CHAIRMAN LOCKYER: Aye.

19 SECRETARY WEBB: Lockyer Aye. Four to zero.

20 CHAIRMAN LOCKYER: Thank you. Good luck.

21 [Thereupon. This portion of the
22 Senate Rules Committee hearing was
23 terminated at approximately 2:57 P.M.]

24 --ooOoo--
25
26
27
28


CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

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I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

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